

OFFICIAL REPORT OF PROCEEDINGS

BEFORE THE

NATIONAL LABOR RELATIONS BOARD

REGION 3

In the Matter of:

Starbucks Corporation,	Case Nos.
	03-CA-285671 03-CA-290555,
Employer,	03-CA-291157 03-CA-291196,
	03-CA-291197 03-CA-291199,
and	03-CA-291202 03-CA-291377,
	03-CA-291378 03-CA-291379,
Workers United,	03-CA-291381 03-CA-291386,
	03-CA-291395 03-CA-291399,
Union.	03-CA-291408 03-CA-291412,
	03-CA-291416 03-CA-291418,
	03-CA-291423 03-CA-291431,
	03-CA-291434 03-CA-291725,
	03-CA-292284 03-CA-293362,
	03-CA-293469 03-CA-293489,
	03-CA-293528 03-CA-294336,
	03-CA-293546 03-CA-294341,
	03-CA-294303 03-CA-206200

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and

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The above-entitled matter came on for hearing, pursuant to notice, before **MICHAEL A. ROSAS**, Administrative Law Judge, at the Robert H. Jackson United States Courthouse, 2 Niagara Square, Wyoming Courtroom, 5th Floor, Buffalo, New York 14202, on **Wednesday, August 3, 2022, 9:04 a.m.**



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I N D E X

<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>VOIR DIRE</u>
Casey Moore	1414	1442, 1448			1425
Brian Nuzzo	1459, 1505,	1507			1466, 1495
	1495, 1502				1501
M. Jazlyn Brisack	1515, 1526				1525, 1533
	1576	1580			1571

E X H I B I T S

<u>EXHIBIT</u>	<u>IDENTIFIED</u>	<u>IN EVIDENCE</u>
General Counsel:		
GC-35 (a)	1524	1524
GC-35 (b)	1524	1524
GC-36	1524	1526
GC-37 (a)	1528	1528
GC-37 (b)	1528	1528
GC-38	1530	1536
GC-39	1530	1536
GC-40	1532	1536
GC-41	1569	1575
GC-79	1424	1426
GC-114 (a)	1545	
GC-114 (b)	1545	
GC-117	1462	1462
GC-118	1462	1462
GC-119	1465	1469
GC-121	1495	1495
GC-122	1500	1502
GC-123	1502	1503

P R O C E E D I N G S

JUDGE ROSAS: Let's go on the record. Okay.

Before we continue with testimony, counsel for Respondent?
Counsel for Respondent.

MS. POLITO: One second, Judge. I'm sorry. I forgot my
headphones. Got it.

Good morning, Your Honor. Yesterday, we discussed your
order that was issued on Monday, August 1st, requesting that
Respondent be required to provide a privilege log and any
remaining subpoenaed information, if applicable, by August 4th.
As indicated to the Court yesterday, in order for us to produce
records, we have to get them to a vendor, and the vendor needs
at least 48 hours for us to be able to produce them. So while
we did have individuals working diligently on Monday to obtain
documents, we are respectfully requesting an extension of that
August 4th date to August 9th, which is Tuesday of next week.
We are off for two weeks, and we do not believe that Charging
Party or General Counsel will be prejudiced by the delay of a
few days.

We haven't received any documents in this case. We've
produced over 18,000 doc -- 18,000 pages of documents. We are
doing our best, as we've indicated from day 1, to provide
documents. So far, there's no indication in the record at all
that there's any documents that these individuals have not
either photocopied, taken screenshots of, or audio recorded in

1 order to help establish their case. So we really do not
2 believe there would be any prejudice by requesting the
3 extension from August 4th to August 9th.

4 JUDGE ROSAS: General Counsel?

5 MS. CACACCIO: Your Honor, as we explained yesterday,
6 these documents were due on July 11th. Respondent had five
7 weeks at that point to produce these records. So we're now
8 entering -- we're in our eighth week of Respondent being able
9 to produce the records. Respondent should have produced them
10 all by July 11th. Then you gave them until the 18th. Then it
11 was extended out, now, to the 4th, and now it's looking at
12 being extended it out to the 9th. The General Counsel is
13 entitled to these subpoenaed records. It's not a -- it's not
14 a -- it's not a -- it's not an option. We're entitled to these
15 records. You upheld our subpoenas three times. We should be
16 entitled to receive the documents.

17 In the documents we have received -- I understand
18 Respondent is continuing to say they've produced 18,000 pages,
19 which is technically true. But what we haven't received --
20 there's a lot of evidence we haven't received that we should
21 have received. And I expect that on the 9th, which I think as
22 I -- based on what we talked about yesterday, I expect you're
23 probably going to be granting this order -- this request. I
24 expect we're going to asking for quite a few adverse inferences
25 based on what we even have received so far. There are tons of

1 categories of documents that haven't been produced at all.
2 There are documents that our witnesses aren't privy to that
3 Respondent is privy to, which is why we issued our subpoenas.
4 We are entitled to them. We should have received them, and we
5 haven't. And I think that, you know, they -- by the 4th was
6 reasonable. They should have produced by the 11th of July.

7 But you know, as I requested yesterday, in the event you
8 grant Respondent's request, we would request that we be able to
9 enter those documents as we're -- as we have an opportunity to
10 review them. As you know, we've been on this trial now for
11 quite a few weeks. The majority of this production occurred
12 right as we were resuming our case-in-chief. So we haven't
13 really had an opportunity to spend a lot of time with the
14 records we even have gotten so far. We've been doing our best
15 to be here, as you've requested, 9 to 9:30 every day, and we
16 need more time. So in the event you grant their request, we're
17 going to request that we be allowed to introduce documents,
18 even at the conclusion of our -- at the conclusion of our case-
19 in-chief if and when we find documents that we believe are
20 responsive.

21 JUDGE ROSAS: Charging party, anything to add?

22 MR. HAYES: Nothing to add.

23 JUDGE ROSAS: Okay, all right. I'm going to grant the
24 application. I'm satisfied at -- at this point,
25 notwithstanding the -- the initial benchmarks or time frames

1 for the production of documents pursuant to the subpoenas, that
2 the Respondent has been providing a significant amount of
3 rolling production. The General Counsel, as I stated at the
4 outset, continued to state, has all of her safeguards and will
5 have all -- all the opportunities needed to review that
6 documentation and introduce it prior to the conclusion of her
7 case-in-chief. And if -- if necessary thereafter, I have set
8 in place parameters assuring that, by the date that I indicated
9 in the order -- I believe that was August 5th, August 4th,
10 August 4th -- that certain additional sanctions would kick in.
11 I'm going to also extend that in conjunction with the extension
12 of time to produce documents to August 9th, as requested by the
13 Respondent.

14 The Respondent has also represented that a privilege log
15 has been produced for the documents that have been produced
16 so -- thus far. Is that correct?

17 MS. POLITO: That's correct, Your Honor.

18 JUDGE ROSAS: Okay, and so I assume a supplemental
19 privilege log, if -- if applicable, will be also provided by
20 August 9th for any additional production. Is that correct?

21 MS. POLITO: That's correct, Your Honor.

22 JUDGE ROSAS: Okay. Is there anything else?

23 MS. POLITO: Not at this time, Judge.

24 JUDGE ROSAS: Okay. All right, so the order is extended
25 to August 9th, 2022. Okay.

1 If there's nothing else, are we ready to proceed with
2 testimony?

3 MS. CACACCIO: Yes, Judge.

4 JUDGE ROSAS: Okay.

5 MS. CACACCIO: Judge, are the documents still up by the
6 witness? Okay, great.

7 JUDGE ROSAS: I believe, just there, she left them.

8 MS. CACACCIO: Okay.

9 JUDGE ROSAS: Welcome back. I'll remind you you're still
10 under oath.

11 Whereupon,

12 CASEY MOORE

13 having been previously sworn, was called as a witness herein

14 and was examined and testified as follows:

15 RESUMED DIRECT EXAMINATION

16 Q BY MS. CACACCIO: Good morning, Casey.

17 A Good morning.

18 Q Did you talk to anyone about content of your testimony
19 between yesterday and today?

20 A No.

21 Q So we last left it at a meeting you attended on October
22 12; when was the next meeting you attended after that?

23 A The next meeting with one with Howard Schultz at --
24 downtown at the hotel.

25 Q Was your store opened or closed for that meeting?

1 A It was closed.

2 Q Were you offered any compensation for attending that
3 meeting?

4 A Yes, we were, and then our parking was also supposed to be
5 paid for.

6 Q Was it?

7 MS. POLITO: Objection. Cumulative. This is at least the
8 third or fourth witness that's talked about this meeting, and
9 the parking, and not being paid for parking or having trouble
10 being paid for parking.

11 JUDGE ROSAS: Well, it's a quick answer. I'll allow it.
12 it's not going to go anywhere else; I hope. Overruled.

13 Q BY MS. CACACCIO: Was the parking actually covered?

14 A No.

15 Q Did you attend any other listening sessions after that?

16 A Yes.

17 Q When was the next listening session you attended?

18 A I believe it was November 15th.

19 Q How did you learn about this meeting on the 15th?

20 A I was told by my support manager, Berg.

21 Q Do you remember Berg's full name?

22 A Robert.

23 Q Do you know his last name?

24 A I think it's, like, Hernberger or something along those
25 lines.

- 1 Q What time was the meeting on November 15th?
- 2 A It was sometime in the evening.
- 3 Q Was the store opened or closed for this meeting?
- 4 A It was closed.
- 5 Q Do you remember what time the store closed for that
- 6 meeting?
- 7 A I think it would have been around 4 or 5, around that
- 8 time.
- 9 Q And what time was the store supposed to close that day?
- 10 A 9 p.m.
- 11 Q Who ran the meeting on the 15th?
- 12 A This was run by Berg, the support manager, and MK.
- 13 Q About how many employees attended the meeting?
- 14 A This was a smaller meeting. There was probably only about
- 15 six or seven of us there.
- 16 Q How long did the meeting last?
- 17 A About an hour-and-a-half to two hours.
- 18 Q Were you compensated for attending this meeting?
- 19 A Yes, I was.
- 20 Q Did you record it?
- 21 A No, I did not.
- 22 Q What happened at this meeting?
- 23 A At this meeting, it was a meeting about Starbucks' mission
- 24 and values. So we went through and identified our values
- 25 compared to Starbucks' values, but it was mostly MK talking

1 about her personal life for about 30 minutes. And then we
2 talked about -- MK and Berg told us that we were all wrong,
3 that we misunderstood what we were told by Rossann and others,
4 and that our store was never supposed to be a drive-thru and
5 mobile order store.

6 Q Can you tell us what they discussed with respect to the
7 drive-thru and mobile ordering issue?

8 A So we were told multiple times that we were -- our store
9 was going to be transitioning to a drive-thru and mobile order
10 pickup, which essentially means that you wouldn't be checking
11 out customers in the cafe. Rossann Williams specifically came
12 into our store and told us that, multiple of us. And then
13 during this meeting, MK and Berg said that we were mistaken,
14 that that was never told to us, that the plan was always that
15 we be focused on drive-thru and mobile order pickup, but that
16 there was never the intention to transition just to not serving
17 customers in the cafe.

18 Q Did anyone respond to their statements in that meeting?

19 A Sorry?

20 Q Did anyone respond to their statements in that meeting?

21 A Yes, many people pushed back saying that we all had the
22 same understanding of it, so how could we all misunderstood
23 what we were told by multiple people.

24 Q What did they say?

25 A They said, we don't really know what you're talking about,

1 this was -- this was never my understanding, so you all must be
2 mistaken.

3 Q When did Rossann come into the store and talk to you about
4 the conversion of your store to a -- to a mobile order and
5 drive-thru store?

6 A So she had been in some of the listening sessions that I
7 talked about, and then she also just stopped by a lot of times
8 at our store. On one particular occasion, she was just there
9 in the afternoon where there was some issues whether or not we
10 were supposed to be checking people out. Because we had a
11 renovation around late October, around Halloween, where they
12 took away one of the registers.

13 MS. POLITO: Objection. Nonresponsive.

14 JUDGE ROSAS: Sustained. Next question.

15 Q BY MS. CACACCIO: Can you tell me what Rossann -- when
16 Rossann visited the store and talked to you about mobile order
17 and drive-thru conversion?

18 A It was one afternoon after the renovation.

19 Q And what was happening that day?

20 A It was just a typical day, but we were confused about
21 whether or not we should be checking customers out in the cafe.
22 Because we had heard different information from different
23 people.

24 Q And what did she tell you at that time?

25 A She told us that the intention was our store was supposed

1 to be drive-thru and mobile order only and we did not have to
2 check people out.

3 Q Was that conversion something that you wanted?

4 MS. POLITO: Objection. Relevance.

5 JUDGE ROSAS: Sustained. Try it a different way.

6 Q BY MS. CACACCIO: What was your opinion about the
7 conversion?

8 MS. POLITO: Objection. Relevance.

9 MS. CACACCIO: May I be heard? This -- there are
10 allegations in the complaint regarding whether certain promises
11 were going to be -- whether they were a benefit or a detriment.
12 And I think what this witness knows about whether this was
13 something or didn't want is relevant.

14 JUDGE ROSAS: There's a problem with the term "want".
15 There are other ways to establish what people may have wanted
16 at any given time based on what they did or what they said.

17 Q BY MS. CACACCIO: Talk to me about your store; how is it
18 set up?

19 A So my store is really --

20 MS. POLITO: Objection. At what point in time?

21 JUDGE ROSAS: Time frame?

22 Q BY MS. CACACCIO: Okay. Casey, can you tell me -- talk to
23 me about the physical setup of your store?

24 MS. POLITO: At what point in time?

25 MS. CACACCIO: It doesn't matter.

1 JUDGE ROSAS: Time frame?

2 Q BY MS. CACACCIO: Currently, ever, did it change?

3 A No.

4 Q Okay, so tell me about the physical setup of your store?

5 A So my store is really weird. It's a small store, so when
6 you enter, there is essentially -- our cafe is a hallway with a
7 few tables. So you can't really -- if someone is sitting at
8 the table, customers have a hard time walking by. And then you
9 walk in, and there's the cafe, and just a very small space.

10 Q Have you been in other Starbucks locations in the area?

11 A Yes.

12 Q Have you had the opportunity to observe those locations?

13 A Yes.

14 Q Which stores have you been to?

15 A Almost all of them.

16 Q And by comparison to those stores to yours, how would you
17 compare them space-wise?

18 A My store is very small. Other stores have multiple
19 seating areas, places for customers to take meetings, have
20 workbenches. Ours is much more -- it's just a much more
21 difficult space to work in.

22 Q How did the conversion to a drive-thru and mobile ordering
23 come about?

24 MS. POLITO: Objection. Assuming facts not in evidence.

25 MS. CACACCIO: The witness just testified that Rossann



1 that they were going to convert it. If she knows how it came
2 about, she can testify to that. If she doesn't know --

3 JUDGE ROSAS: That the -- that -- that discussion with --
4 with Ms. Williams?

5 MS. CACACCIO: Yes.

6 Q BY MS. CACACCIO: Do you know how that came about?

7 A Yes, so we were told during listening sessions, even
8 before that conversation, that something that we wanted from
9 our store was to be converted to a drive-thru-and-mobile-order-
10 only store. And after those conversations is when we learned
11 that that was going to be the plan. And that was why that --
12 we had the October renovation, was -- we were told that that
13 was the first renovation to start on that process. And then we
14 were supposed to be closed for a month in April to complete the
15 renovation, but the renovation in April never happened.

16 Q After this meeting attended on November 15th, did you
17 attend any other listening sessions?

18 A No.

19 Q So you testified that you saw Rossann in your store after
20 August of 2021; how many times did you see her?

21 A I would say at least five or six times.

22 Q And what did she do when she was there?

23 A When she was there, she would do a lot of different
24 things, primarily talking to a lot of the partners at my store.
25 So she would often come behind the bar when we were working,

1 offer to do things like take out the trash, or help in any ways
2 that she could, you know, offering to -- to do things that we
3 needed around the store. You know, sometimes she would, like,
4 pull people off the floor and have one-on-one conversations
5 with them. I remember one time I was on a half a lunch break,
6 and I was reading a book. And you know, she stopped and
7 started talking to me and asking how I liked the store,
8 different things like that, what improvements I think could be
9 made to the store, those type of questions.

10 Q When was the last time you remember seeing Rossann in your
11 store?

12 A She was at my store right before the vote count at my
13 store, I think in May, in -- yeah, April or May.

14 Q Other than Rossann, did you see any other Starbucks
15 officials in your store?

16 A Yes, countless.

17 Q Can you name any of them specifically?

18 A Mallori was at my store. MK was at my store, Allyson
19 Peck. We had operation coaches, someone named Matt. We had
20 Berg at my store. We had Kaley. We had countless maintenance
21 people that were in the store. It was kind of, depending on
22 the day, you'd get different people. And then we also had John
23 Culver, the COO of the company, at my store.

24 Q Were you there when John Culver came to your store?

25 A Yes.

1 Q How many times do you remember seeing John Culver?

2 A Once.

3 Q What was he doing?

4 A He came in the store with Mallori, and it was -- I think
5 it was Mallori, and he was just talking to people at first.
6 He -- I was either doing DTO, or window, or somewhere by the
7 bar area. And he just started talking to people about what he
8 was doing in Buffalo alcohol and things like that. And so I
9 introduced myself, and I asked who he was, and he just said,
10 oh, I'm John. And I -- I asked him, do you work with
11 Starbucks, and he said yes. And I said, what do you do. And
12 he kind of just said, I work with a lot of different markets,
13 some domestic, some global markets. And so I asked him, are
14 you an executive, and he looked at me and said, I'm a partner.
15 And then I asked him why he was in Buffalo, and he said that he
16 had grown up in the area and that he was interested in our
17 store because we were one of the stores that were going to be
18 drive-thru and mobile only.

19 Q You said something in there, DTO; what's that?

20 A Drive-thru order, so essentially when you're taking
21 customers' orders when they're in the drive-thru.

22 Q Did you ever learn who -- did you ever -- did you ever
23 learn who John was?

24 A So after he left, I immediately Googled John, Starbucks,
25 and his name and face was the first thing that came up as the



1 COO of the company.

2 Q How long was he in your store that day?

3 A I'm not exactly sure; I don't think more than an hour or
4 so.

5 Q Do you remember when he made that visit?

6 A That would have been sometime in the fall. I'm not
7 exactly sure when.

8 Q What did you do after he visited, if anything?

9 A I -- I did a -- I posted about it on Twitter.

10 Q What account did you tweet it from?

11 A The Starbucks Workers United account.

12 Q And how soon after he visited did you make that tweet?

13 A The same day.

14 Q If I showed you that tweet, could you -- could you
15 identify it for us?

16 A Yes.

17 MS. CACACCIO: I'm showing the witness General Counsel's
18 Exhibit 79.

19 Q BY MS. CACACCIO: Do you have GC Exhibit 79 in front of
20 you?

21 A Yes.

22 Q Can you tell me what that is?

23 A This is the tweet that I made after John Culver visited
24 our store.

25 Q Is it a full and complete copy of that tweet?



1 A Yes. There is the tweet, which is the -- on the top of
2 the page with the Starbucks Workers United Twitter handle. And
3 then the second tweet that you see is a reply to the first
4 tweet.

5 Q Did you tweet the reply, as well?

6 A Yes.

7 Q How did you come to take the image that's on this page?

8 A It's a screenshot from my phone.

9 MS. CACACCIO: Your Honor, I offer General Counsel Exhibit
10 79 into evidence.

11 JUDGE ROSAS: Voir dire, objection?

12 MS. POLITO: Voir dire, Judge.

13 **VOIR DIRE EXAMINATION**

14 Q BY MS. POLITO: Ms. Moore, the Exhibit 79 that we're
15 looking at is a screenshot of just your original tweet and then
16 your response; is that correct?

17 A Yes, the response to the tweet.

18 Q There's -- but where it says there is 12 quote tweets
19 underneath and 274 retweets, that's not evidenced in this
20 document, correct?

21 A That's to the original tweet that you see, the one that
22 starts with John Culver.

23 Q So when you took a screenshot of your original tweet, you
24 also took a screenshot that included your first response, and
25 that -- that's what's reflected on the bottom?

1 A Yes.

2 Q But what were you responding to, a comment?

3 A No. On Twitter, you can respond to, like, an original
4 tweet, so like, this tweet, it's basically, like, a thread. So
5 you can look potentially add other tweets.

6 Q So this is your -- the top portion is your original tweet?

7 A Yes.

8 Q And then second portion is you're -- you're doing the
9 first response to the tweet?

10 A Correct.

11 Q And then there would be other responses, but they're not
12 depicted on here, correct?

13 A Right, other respondents could respond, but this is just
14 from the -- the account.

15 Q From your account that you maintain for Workers United?

16 A Yes, I am one of the people on the account.

17 MS. POLITO: No objection, Judge.

18 JUDGE ROSAS: General Counsel's 79 is received.

19 **(General Counsel Exhibit Number 79 Received into Evidence)**

20 Q BY MS. CACACCIO: You testified that you saw MK in your
21 store; how many times do you remember seeing her?

22 A She would come weekly to my store, so more times than I
23 could count on my fingers.

24 Q Do you know what her title was?

25 A She became my district manager. I'm not sure exactly when

1 that happened, but sometime after we went public with the union
2 campaign in late August.

3 Q Do you know who was the district manager before MK?

4 A Yes, his name was David LeFrois.

5 Q How many times did you see him in your store before
6 August -- the end of August of 2021?

7 A Only once.

8 Q What did MK do in your store when she was there?

9 A She would do a lot of different things. She would, again,
10 come behind the bar, check on different things, see if any
11 equipment was broken, talk to partners, you know, ask partners
12 what she -- we thought could be improved from the store,
13 have -- build relationships with partners. She would do a lot
14 of different things.

15 Q Did you ever talk to MK directly?

16 A Yes.

17 Q About what?

18 A Just about, like, the operations of the store. We would
19 do things like -- there was a lot of rearranging of things in
20 the store, so we would to talk about that, organization-wise,
21 how I thought things should be arranged in the back room, what
22 I thought could be improved about the store. You know, there
23 was always -- MK asked for questions about the union, if I
24 wanted to.

25 Q Did you respond to any of her inquiries?

1 A Yes, I told her that the only thing that I thought should
2 be improved is Starbucks should end their union busting.

3 Q Did she respond?

4 A Not really.

5 Q You mentioned Mallori; how many times did you see her in
6 your store?

7 A I couldn't even count. Mallori was at my store very
8 frequently.

9 Q What did she do when she was there?

10 A There was a lot of shifts that have personal relationships
11 with Mallori at my store, so they'd text her when, you know,
12 something was wrong or if something happened. And so she would
13 just pop in frequently, checking in on how things were going,
14 the renovation was going, the operations, how staffing was,
15 things like that.

16 Q Do you know what Mallori's title was?

17 A I think she was an operations coach at this time. I don't
18 think that's her title anymore.

19 Q Do you see her today?

20 A Yes.

21 MS. CACACCIO: I probably should have done this earlier,
22 anyway, but let the record reflect that Respondent's party
23 representative today is Mallori.

24 And can you give us your last name, Mallori?

25 MS. COULOMBE: Coulombe.

1 MS. CACACCIO: Could you -- could you spell it?

2 MS. COULOMBE: C-O-U-L-O-M-B-E.

3 MS. CACACCIO: Thank you. Okay.

4 Q BY MS. CACACCIO: You also mentioned that you saw Allyson
5 Peck in your store; how often did she visit your store?

6 A I don't remember seeing Allyson as much in my store, but I
7 do remember her coming in with groups of people at least a few
8 times.

9 Q And when you did see her, what did she do when she was
10 there?

11 A Specifically with Allyson, I remember just there was
12 frequently, like, a group of people that would come in. So I
13 don't exactly know what they were doing, sometimes talking
14 about maintenance things or the renovation. But you know, they
15 would have people come in and just kind of, like, stare at you
16 while you were working, in kind of big groups. So it was
17 just --

18 MS. POLITO: Objection. Nonresponsive. The question was
19 what did Allyson Peck do.

20 JUDGE ROSAS: Stop it there. Next question.

21 Q BY MS. CACACCIO: Did Allyson come alone?

22 A No.

23 Q And who did she come with?

24 A Actually, I would like to revise that. She may have come
25 alone before. I'm not sure, but --

1 Q Did she always come alone?

2 A No.

3 Q Who else did she come with?

4 A She would sometimes come with maintenance people, ops
5 coaches, Rossann, executives, things like that.

6 Q And what did you observe those groups do when they were in
7 your store?

8 A I didn't know sometimes. They would kind of just be
9 watching us work a lot of the times and just kind of talking in
10 groups and staring at us.

11 Q When do you remember seeing Allyson in your store?

12 A Frequently throughout the time between September and
13 December of 2021.

14 Q Do you know someone by the name of Adam?

15 A Yes.

16 Q Do you know who Adam is?

17 A I believe his title is something along the lines of
18 community director or works with community for Starbucks
19 corporate.

20 Q Did you ever see him in your store?

21 A Yes, he led at least two of the listening sessions at my
22 store, and then he came to my store a few times with -- at
23 least once, with Rossann, and I think a few other times.

24 Q What did Adam do when he was in your store?

25 A So Adam was the one who was primarily talking to us about



1 the renovations at my store and the plans for the drive-thru-
2 mobile-order-only stuff. So he came in and he would talk to us
3 about blueprints. People at my store had had their own ideas
4 on what they thought the blueprints should be for the
5 renovations, so he would talk to them about those types of
6 things.

7 Q When was the last time you remember seeing him in your
8 store?

9 A So after the October renovation, I only saw him, I
10 believe, once or twice after that. When the revolution didn't
11 happen, he stopped coming around.

12 Q Did any of the corporate officials who visited your store
13 offer to work?

14 A Yes.

15 Q Did any of them actually work?

16 A On occasion, we to have them take out trash and things
17 like that, but typically, they weren't in dress code and didn't
18 have the right skills to actually help us on the floor.

19 Q When you say they weren't in dress code, what do you mean?

20 A Like, for example, we're not allowed to wear wedding
21 rings, or like, big rings like that. And they would be wearing
22 rings, or not the right colors. Because Starbucks became very
23 strict about the colors that we wear. I've been sent home for
24 having the wrong shade of jeans.

25 MS. POLITO: Objection. Nonresponsive.

1 JUDGE ROSAS: We'll stop it there. Next question.

2 Q BY MS. CACACCIO: When were you sent home of dress code?

3 A This spring. It was a few months ago.

4 Q What happened?

5 A I came into work that morning, and jeans that I am worn
6 countless, countless times at work, I was told were the wrong
7 shade, and I had to go home to change them if I wanted to work
8 that day.

9 Q Who sent you home?

10 A I was sent home by the shift supervisor.

11 Q In the time you worked in your store prior to August of
12 2021, did your store have a support manager?

13 A No.

14 Q What about after the end of August of 2021? Did your
15 store ever get a support manager?

16 A We had two.

17 Q Who were they?

18 A The first one was Berg, who we mentioned before. Robert,
19 he came to our store after one of the listening sessions, the
20 second one, so after September 28th, and was there up until
21 Christmas time. And then we got Kaley a few months after that.

22 Q At the time that Berg was your -- was the support manager
23 of your store, what other managers did your store have?

24 A We had my manager, Mark, and then we also had a manager in
25 training, confusingly also named Mark, for a little bit.

1 Q Do you know where Berg came from?

2 A I believe he came from Virginia. I don't know if it was
3 Virginia or West Virginia, but it was out of state.

4 Q Do you know what he did where he came from?

5 A He was also a store manager.

6 Q How do you know that?

7 A He told me.

8 Q What, if anything, changed after Berg's arrival at your
9 store?

10 A We had lots of things changed after Berg arrived. Things
11 that my manager had always done, like make the schedule and
12 things like that, Berg eventually took over. Berg also worked
13 on the floor with us a lot, which was very different from how
14 Mark handled things. Mark would only go on window, typically,
15 which is where you hand off the food and beverage to customers.
16 But Berg would come and work with us on the floor, and work on
17 bar, work on DTO, run things. Rules got much more strictly
18 enforced after Berg was there.

19 Q What rules?

20 A Sorry, what roles would Berg do?

21 Q No, what rules did he more strictly enforce?

22 A Oh, a number of different things. Dress code was first
23 and foremost. He took us off the floor, each, at one point to
24 identify how we were violating dress code, and told us, you
25 know -- I had to buy new shoes, for example.

1 Other rules included where we put the sticker of the
2 drink. So the way it works is, you know, when a customer --
3 customer makes an order, you take the sticker, and you have to
4 put it on the cup, depending on what drink you're making. And
5 he wanted us, like -- if we -- he -- he just had a very
6 specific way where he wanted the sticker, so we couldn't put it
7 on the siren's face, you have to put it somewhere else. We
8 also started changing how we -- we were on bar, for example.

9 So if we were on bar, we had such a high volume, like, in
10 the morning, for example, that, you know, putting our milks in
11 and out of the fridge didn't make any sense because we were
12 going through them so fast. But he was very adamant that,
13 like, between every single drink, we put the milks back in the
14 fridges and things like that.

15 Q What was -- how -- what did you do with drink stickers
16 before Berg came?

17 A You just put it on the cup.

18 Q Had you ever been spoken to about where you put a sticker
19 on a cup before Berg came?

20 A No.

21 Q You mentioned something about your shoes; what happened
22 with respect to your shoes?

23 A So the shoes that I had been wearing, I had of pair of
24 black shoes that I had used in the service indus -- like, I was
25 a waitress before this. So I had worn the same pair of shoes

1 from the time I started until Berg got there. And then when I
2 was taken off the floor to do the dress code check, I was told
3 that I could no longer wear those shoes.

4 Q What was wrong with the shoes?

5 A They didn't like the material they were, so they said that
6 I had to had to get new shoes.

7 Q Do you remember when you were pulled off the floor to talk
8 about the dress code?

9 A I believe this was in November.

10 Q And with respect to the milk, how was that handled prior
11 to Berg's arrival?

12 A We had a very relaxed store environment, so rules were not
13 very strictly enforced at my store at all. You just left the
14 milk out. If there was a period of a few minutes where you
15 weren't as busy, you would put -- of course put the milks away,
16 for safety, but otherwise it was -- it wasn't -- we were going
17 through the milk so quickly, there was no reason to put them
18 back in the fridge constantly.

19 Q How often was Berg in your store?

20 A He was working probably over 40 hours a week at my store.

21 Q And what did he do when he was in your store?

22 MS. POLITO: Objection. Asked and answered.

23 MS. CACACCIO: I don't believe I asked about Berg.

24 JUDGE ROSAS: You -- you did.

25 MS. CACACCIO: I asked where he came from. I asked when

1 he arrived, but I didn't ask what he did.

2 JUDGE ROSAS: He took over scheduling, worked on the floor
3 with them. You want to take it from there?

4 Q BY MS. CACACCIO: Are you familiar with the headset policy
5 at your store?

6 A Yes.

7 Q So how were headsets worn prior to Berg's arrival?

8 A So my store is very drive-thru heavy, so typically
9 everyone, for the most part -- as long have enough head -- head
10 sets, everybody on the floor would wear them. But our manager
11 never did.

12 Q And what about after Berg arrived?

13 A Berg would pretty much always wear a headset at the store.

14 Q You mentioned that Berg began scheduling; who was
15 responsible for scheduling before Berg arrived?

16 A Mark, my manager.

17 Q You also mentioned a support manager named Kaley; when did
18 she join the store?

19 A She joined the store a few months after Berg left. My
20 store -- yeah, that's the question.

21 Q How often did Kaley work?

22 A Again, she worked over 40 hours a week at my store, I
23 think.

24 Q And what did you she with your store?

25 A So my store became very understaffed after Mark left, and



1 she would be constantly working on the floor with us because we
2 were very understaffed.

3 Q Prior to the end of August of 2021, did you ever work
4 shifts where there wasn't a manager present?

5 A Yes.

6 Q How often?

7 A Constantly. I did opening, mid, and closing shifts. So
8 typically, Mark would be there early in the morning, but he
9 would leave after his after his eight-hour shift. And then we
10 would always, almost, close the store without a manager.

11 Q And what about after the end of August of 2021? Did you
12 ever work any shifts -- how often did you work shifts without a
13 manager present?

14 A It became very rare not to have a manager at the store at
15 any time.

16 Q You mentioned that there came a time where you felt your
17 store was understaffed; when was that?

18 A So this wasn't until the spring of 2022.

19 Q So was that always the case?

20 A No. At one point in the, like, fall into winter -- or I
21 guess more -- really, like, the wintertime, we were
22 overstaffed.

23 Q Why did you think your store was overstaffed in the
24 winter?

25 A There was a few times where we would have so many people

1 on the floor scheduled that people would, you know -- they
2 would ask, who would like to go home because we don't have
3 enough work to be done.

4 Q Did you ever do that?

5 A Yes.

6 Q I should have been clearer with that. Did you ever --
7 what involvement did you have in that?

8 A Sometimes I would -- once or twice, I volunteered to go
9 home.

10 Q You mentioned that there was a renovation to your store;
11 when was it?

12 A It was in late October, right around -- right before
13 Halloween.

14 Q Was your store opened or closed for this renovation?

15 A It was closed.

16 Q For how long?

17 A Approximately a week.

18 Q How did you learn about the renovation?

19 A I was told that just about a week or two before the
20 renovation by my manager at the time, Mark.

21 Q And what did he tell you?

22 A He told us that our store was going to be closed for a
23 week for renovation and it would be our responsibility to pick
24 up shifts at other stores if we wanted hours for that week.

25 Q What did you end up doing for work during the renovation?

1 A I just ended up losing out on those hours.

2 Q Did you ever work in the store after the renovation?

3 A My store, yes.

4 Q And what was changed during the renovation?

5 A I think I mentioned they took away a register. We had two
6 registers at -- at the front and the cafe; they took away one
7 of them. They took away the food display case. They moved our
8 ovens. They added a light fixture, and that was the primary
9 renovations.

10 Q You mentioned there was supposed to be a renovation in
11 April; did that happen?

12 A No.

13 Q Is that the renovation that we discussed earlier?

14 A Yes.

15 MS. CACACCIO: Your Honor, can I just have a minute?

16 JUDGE ROSAS: Off the record.

17 (Off the record at 9:46 a.m.)

18 **RESUMED DIRECT EXAMINATION**

19 Q BY MS. CACACCIO: Casey, when did you learn that Berg was
20 taking over making the schedules for your store?

21 A I believe it was either in October or November.

22 Q What happened?

23 A Berg (sic) was out (b) (6), (b) (7)(C) and -- and
24 vacation and different things, and so Berg took over the
25 schedule.

1 Q Who was out?

2 A Mark, my manager.

3 Q When Mark came back, who was doing the scheduling?

4 A I think Berg continued to do the scheduling.

5 Q Those shoes that you were spoken to about, how often had
6 you worn those before you'd been spoken to about them?

7 MS. POLITO: Objection. Asked and answered.

8 JUDGE ROSAS: Repeat the question?

9 Q BY MS. CACACCIO: How -- those shoes that you were spoken
10 to about, how often had you worn them prior to being spoken to
11 about them?

12 JUDGE ROSAS: I guess the frequency wasn't exactly
13 established. Overruled.

14 A Every single shift I worked.

15 Q BY MS. CACACCIO: Are you aware of any other employees who
16 were spoken to about the dress code at that time?

17 A We were all taken off the floor and spoken about to it.

18 Q Are you directly aware of any specific examples of other
19 employees and their dress code violations at that time?

20 A Yes.

21 MS. POLITO: Objection. Hearsay.

22 JUDGE ROSAS: What's the basis?

23 MS. POLITO: It's all hearsay. Those witnesses can come
24 in and testify. She can't testify as to whether or not any
25 other individual received any corrective action notice.

1 JUDGE ROSAS: Well, let's see what the answers are. If
2 there's any hearsay in there that is not otherwise admissible
3 as reliable, it'll be stricken. But let's see what the witness
4 says she observed or heard on the part of Respondent's
5 managers, supervisors, and officials.

6 Next question.

7 Q BY MS. CACACCIO: So what did you see or hear about dress
8 code at that time?

9 A So I was working on a shift, and we were all taken,
10 like -- they were taking turns taking us off the floor. And so
11 you know, after mine went, I witnessed my other coworkers be
12 taken off the floor. And they would come back and say, they
13 told me I -- Marissa, for example, was told she couldn't wear
14 the pants that she was wearing. Halie and BK were told that,
15 you know, their rings were unacceptable, so there was different
16 things like that.

17 MS. CACACCIO: I have no further questions for this
18 witness at this time.

19 JUDGE ROSAS: Charging Party?

20 MR. DOLCE: Nothing from Charging Party.

21 JUDGE ROSAS: Okay. Off the record.

22 (Off the record at 9:52 a.m.)

23 JUDGE ROSAS: Okay, so there's a small portion of this
24 affidavit in case 28-CA-292201, which has a lot of bro -- a lot
25 of allegations pertaining to areas outside of Buffalo, as well

1 as Buffalo and the store involved. I've redacted portions that
2 do not at least remotely refer or relate to the testimony of
3 this witness. I will point out, with the redacting, the marker
4 has gone through the page at -- at a couple of points where
5 there might be some question where you might see, a little bit
6 in the background, I've indicated "okay". And you should be
7 able to read it, but you know, it's not blacked out. Okay.

8 We'll take another five minutes or so for you to look at
9 this, and the witness can come in back whenever.

10 (Off the record at 10:33 a.m.)

11 JUDGE ROSAS: Okay. On the record.

12 Respondent?

13 **CROSS-EXAMINATION**

14 Q BY MS. POLITO: Good morning, Ms. Moore.

15 A Good morning.

16 Q You were hired by Starbucks in July of 2021; is that
17 correct?

18 A Yes.

19 Q And when you were hired, were you given a partner guide?

20 A Yes.

21 Q And you did, in fact, review the partner guide and
22 acknowledge receipt of the same; is that correct?

23 A Yes.

24 Q And the partner guide contained a dress code policy?

25 A It did, yes.

1 Q Prior to your hiring in July of 2021, is it fair to say
2 that you would not have talked to any Starbucks executives as
3 to whether or not the William Place (sic) store would become a
4 drive-thru-only store?

5 A Prior to my hiring, that is correct, yes.

6 Q And as of February of 2022, you're employed by the Union,
7 as well; is that correct?

8 A Yes, that's correct.

9 Q Full time?

10 A Yes.

11 Q And I think you said you were communications --

12 A Correct.

13 Q -- director?

14 A I don't know if it's really a title that, yeah, I use.

15 Q And on direct testimony, I believe, yesterday, we talked
16 about how you're the -- one of the managers of the Twitter
17 account; is that correct?

18 A Yes. It's a committee, so I'm on the committee, so I have
19 access, yes.

20 Q Any other publicly -- public social media accounts that
21 you're responsible for for Workers United?

22 A I'm on the committee for our TikTok and Instagram, as
23 well.

24 Q And have you posted about this hearing on your TikTok?

25 A Yes.



1 Q Why?

2 A Why? It's educational for people.

3 Q Is it educational to tell social media where the attorneys
4 for Starbucks are staying, what hotel they're staying at?

5 A I don't -- I don't know what hotel you're staying at.

6 Q Do you remember posting on your TikTok video that your
7 understanding is that the Starbucks attorneys and/or officials
8 would stay at the Westin? Do you recall that?

9 MS. CACACCIO: Objection. Relevance.

10 MR. HAYES: Yeah, object.

11 JUDGE ROSAS: Can you step outside for a minute?

12 (Witness leaves the room)

13 JUDGE ROSAS: All right, so let's -- let's deal with this
14 issue and anything else that you anticipate coming up in the
15 next couple of minutes, okay, so we can avoid the in and outs.

16 And this relates to?

17 MS. POLITO: Judge, this individual posted a TikTok video
18 last week, prior to her anticipated testimony, talking about
19 reviewing notes indicating the hotel --

20 JUDGE ROSAS: Reviewing what?

21 MS. POLITO: Talking about reviewing notes before she came
22 to testify, what she was wearing before she came to testify.

23 JUDGE ROSAS: Okay.

24 MS. POLITO: And advising social media where the attorneys
25 and/or Starbucks officials are staying. It's wholly



1 inappropriate. It directly impacts her credibility and bias,
2 again, and it demonstrates her view and mockery of this serious
3 litigation that we are involved in by posting that TikTok
4 video. And I'm happy to do an offer of proof and have you
5 watch the TikTok video outside the presence of the witness and
6 then let me know what your thoughts are as to whether I can
7 cross-examine her.

8 JUDGE ROSAS: Okay, so -- so regarding actions or
9 statements that she may have made, I'll -- I'll -- I'll permit
10 you to pursue a certain line of testimony, but I won't let you
11 go beyond that as to why, or do you feel that it's
12 inappropriate. You can establish what you believe is the case
13 and what is relevant, what is pertinent, to the issue of
14 credibility, okay, bias, as you say. We -- we addressed a
15 little bit of this yesterday with the previous witness.

16 MS. POLITO: With the --

17 JUDGE ROSAS: And we -- we discussed at length the extent
18 to which we should go into other matters when, you know --
19 you're concerned about bias. But you've got the witness'
20 position yesterday, for example, stated as far as the Union is
21 concerned and what you believe might be bias in favor of the
22 Union, arguably, from what I assume you'll argue on your brief,
23 his position that perhaps half or more than half of a listening
24 session with individuals, similarly, what -- whatever --

25 MS. POLITO: I think that's true, Judge.

1 JUDGE ROSAS: What's that?

2 MS. POLITO: I think that's true, Your Honor. And I'm
3 sorry to interrupt, but it's wholly inappropriate for a witness
4 to post on social media where the attorneys might be staying as
5 we're defending this lawsuit for a period of four months.

6 JUDGE ROSAS: Okay, so -- so I'm allowing that. And then
7 the question that was objected to at that point was what? Did
8 you ask why did you think it was ina --

9 MS. CACACCIO: I mean, I'm objecting to this whole line of
10 questioning. It's not relevant. It's not -- it doesn't go to
11 this witness -- there's no allegations that this witness
12 violated the sequestration order in any way. And there's no
13 allegations any of the witnesses are responsible for the
14 Union's Twitter. And on the Union -- the Union TikTok, if she
15 posts what outfit she's wearing, I mean, that's not -- it has
16 nothing to do with her credibility or her bias. It just
17 doesn't

18 MS. POLITO: You don't think it's threatening for her to
19 post where the attorneys are staying?

20 JUDGE ROSAS: It's what? It's what?

21 MS. POLITO: You don't think it's potentially threatening
22 to post where we're staying because we're doing our jobs and
23 defending our client?

24 MS. CACACCIO: She already testified that she doesn't know
25 where you're staying.

1 MS. POLITO: Oh, well, let's -- then let's play the TikTok
2 video.

3 JUDGE ROSAS: Well --

4 MS. POLITO: If that's -- that's her testimony, then, Your
5 Honor, I'd like to make an offer of proof and play the TikTok
6 video right now.

7 JUDGE ROSAS: Well --

8 MR. DOLCE: Your Honor, may I?

9 JUDGE ROSAS: Yeah, go ahead.

10 MR. DOLCE: So in the -- in the video, it -- it was well
11 established back in the fall that when all these out-of-town
12 managers were coming in, that they were staying in the Westin.
13 That's been, like, in, like -- reported and stuff. I believe,
14 in the TikTok video, what -- what the witness was referring to
15 was that fact. That was not --

16 MS. POLITO: I'm not sure that the attorney can testify as
17 to what the witness believed.

18 JUDGE ROSAS: Well, look, look, look. The fact is --

19 MS. CACACCIO: Well, we're not testifying; we're talking.

20 JUDGE ROSAS: I'm going to provide the Respondent with a
21 certain amount of leeway. Again, circumscribed by, you know,
22 limitations regarding the details thereof, you can
23 establish -- I'll -- I'll -- I'll give you leeway to establish
24 what -- what -- what you're trying to do here as far as the
25 witness' pre-hearing statements, pre-testimony. And but when

1 we get to a certain point where I feel that it is getting a
2 little too remote or not relevant, I'm going to cut it off.
3 Okay? All right. Let's bring her back.

4 (Witness returned to the stand)

5 JUDGE ROSAS: Okay. Resume.

6 **RESUMED CROSS-EXAMINATION**

7 Q BY MS. POLITO: Ms. Moore, you just told us that you
8 posted a TikTok video of the hearing last week; do you recall
9 that testimony?

10 A Yes.

11 Q And do you recall in that TikTok video, in addition to
12 talking about what you would be wearing to the hearing that
13 particular day, and your disappointment that it was canceled,
14 you also mentioned where the Starbucks officials and/or their
15 attorneys were staying, and you took -- in your video, you
16 showed the Westin? Do you remember that?

17 MS. CACACCIO: Objection.

18 JUDGE ROSAS: What --

19 MS. CACACCIO: Compound.

20 JUDGE ROSAS: Do you understand the question?

21 THE WITNESS: I believe so.

22 JUDGE ROSAS: Okay, go ahead. You -- if you can, answer.

23 A I did not say where -- I had no idea where you all were
24 staying. I said when Starbucks executives were in town --

25 Q BY MS. POLITO: But they --



1 A -- I believed they stayed at the Westin.

2 Q And -- and not just the executives, but their attorneys,
3 correct?

4 A No.

5 Q You just said the executives in your TikTok video?

6 A I believe so. I'd have to review the TikTok.

7 MS. POLITO: Can we pull it up and review it, Judge?

8 MS. CACACCIO: I'm going to object, on the grounds of
9 relevance.

10 JUDGE ROSAS: This -- this is something that can be easily
11 pulled up, right? It's on the internet?

12 MS. POLITO: It can easi -- it can be easily pulled up,
13 Judge.

14 JUDGE ROSAS: Okay. You'll offer it on your case. I'm
15 not going to belabor it now.

16 MS. POLITO: Okay.

17 Q BY MS. POLITO: Did you post any other TikTok videos about
18 the hearing?

19 A No.

20 Q So you were hired -- what day on -- in July of 2021 were
21 you hired?

22 A I don't recall off the top of my head. I'd have to look.
23 I don't want to give you an incorrect date.

24 Q Was it late July?

25 A I believe I was hired -- I was doing, like, interviews,

1 earlier than that, but it might have been when I actually
2 started in the store.

3 Q And then by August 23rd, 2021, you tweeted out the Dear
4 Kevin letter; is that correct?

5 A I was there when it was tweeted, yes.

6 Q And you were a signatory to that letter; is that correct?

7 A That is correct, yes.

8 Q And then you attended your first listening session on
9 September 2nd; do you recall that?

10 A Yes, I do.

11 Q And do you remember, in that lis -- listening session
12 stating, it has been at least five to six years since the last
13 listening session? Do you recall that --

14 A Yes.

15 Q -- stating that? How did you learn that the -- Starbucks
16 had had a prior listening session five to six years ago?

17 MS. CACACCIO: Objection. Hearsay.

18 JUDGE ROSAS: I'll allow it, if you know.

19 A I know because many of the partners at my store were long-
20 term partners. We had people there from three years, to four
21 years, to over a decade, in some cases. And we were a very
22 close store, so we had talked about the listening session prior
23 to attending.

24 Q And those individuals told you it had been about five to
25 six years since the last one; is that correct?

1 A That is correct, yeah.

2 Q You also stated in that listening session that everyone is
3 terrified of getting fired; is that correct?

4 A Yes.

5 MS. CACACCIO: Objection. We have not been allowed to
6 enter any of that evidence in our case-in-chief due to
7 Respondent's objection to us doing so due to 10(j).

8 JUDGE ROSAS: Repeat the question?

9 Q BY MS. POLITO: You stated that everyone is scared --
10 terrified of getting fired in the lis -- in the listening
11 session on 9/2?

12 JUDGE ROSAS: And you object to that?

13 MS. CACACCIO: I object to the line of questioning. If
14 we're going to get into chill evidence, we'd be happy to do so,
15 if Respondent wants to remove their objection to it.

16 MS. POLITO: It's -- it's not chill evidence. It's one
17 question about what she said at that meeting.

18 JUDGE ROSAS: I'll allow it. Overruled.

19 A Yes.

20 Q BY MS. POLITO: Were you aware of anyone being fired in
21 the ten days between the August 23rd, 2021 letter and the 9/2
22 listening session?

23 A No.

24 Q And you recorded that session on your cell phone; is that
25 correct?

1 A That is correct, yes.

2 Q Had you ever recorded any prior sessions with any prior
3 employer?

4 MS. CACACCIO: Objection. Relevance.

5 JUDGE ROSAS: Sustained.

6 Q BY MS. POLITO: You also attended a listening session on
7 October 12th; is that correct?

8 A Yes.

9 Q And in that listening session, you took some pictures; is
10 that correct?

11 A That is correct.

12 Q Did you provide those pictures to the Board?

13 A I did, yes.

14 MS. POLITO: We're going to ask for copies of those
15 pictures because we don't have them.

16 MS. CACACCIO: And you can ask, but your subpoena was
17 struck down, so we're not turning anything over to you that we
18 got in our investigation.

19 MS. POLITO: And again, we have no records.

20 MS. CACACCIO: And you're not entitled to them.

21 JUDGE ROSAS: You're referring to which subpoena, on who?

22 MS. CACACCIO: The Board, and the answer is no.

23 MS. POLITO: Yes. And -- and at this point, I'm not sure
24 if we served individuals subpoena on Ms. Moore, but we will be
25 serving a subpoena for all of her reporting individuals --

1 JUDGE ROSAS: Okay.

2 MS. POLITO: -- that are not provided to us.

3 JUDGE ROSAS: Okay.

4 MS. CACCACCIO: I'm going to -- I just want to make clear
5 on the record, they're not provided to you because Your Honor
6 ruled weren't -- we didn't have to provide them, which is why
7 they were not provided to you.

8 Q BY MS. POLITO: Ms. Moore, you testified on direct
9 examination that Ms. -- I think his nickname was Berg; is that
10 correct?

11 A Correct.

12 Q That was shortened for his last name?

13 A Yeah. Yeah. Something like that.

14 Q So Berg met with you and the other baristas in your store
15 to review the dress code policy. Do you recall that testimony?

16 A Yes.

17 Q And when he reviewed the dress code policy with you, he
18 talked about some specific examples of violations of the dress
19 code policy, correct?

20 A That is correct.

21 Q And those were your jeans that you had been wearing as
22 well as your shoes; is that correct?

23 A The jeans incident was much later on, but the shoes is
24 correct.

25 Q And you were told that the shoes were out of compliance

1 with the dress code policy?

2 A Yes.

3 Q And you also had to sign receipt of the dress code policy
4 at that time?

5 A I believe we signed something like that.

6 Q And when you say we, you're referring to all of the
7 baristas in your store, not just you, correct?

8 A This is correct.

9 Q And you didn't receive any written disciplinary action as
10 a result of the violation of the dress code policy, correct?

11 A No.

12 Q When you started working for the Union in 2022 full time,
13 you reduced your availability; is that correct?

14 A That is correct.

15 MS. CACCACCIO: Objection. Outside the scope.

16 Q BY MS. POLITO: And you weren't terminated --

17 JUDGE ROSAS: Hold on. Hold on for a moment. What's it
18 related to on direct?

19 MS. POLITO: On direct testimony she stated that she
20 worked 37 hours at first and then reduced her hours in the
21 winter and then worked three days per week.

22 JUDGE ROSAS: Overruled. You can answer.

23 THE WITNESS: Yes.

24 Q BY MS. POLITO: And you weren't disciplined by Starbucks
25 for reducing your availability, correct?

1 MS. CACCACCIO: Objection. Relevance. The allegation
2 with regards to availability don't have to do with her --

3 JUDGE ROSAS: I'm going to sustain that. I'm going to
4 sustain that.

5 Q BY MS. POLITO: Starbucks took no action, and in fact,
6 approved your request for reduced availability, correct.

7 MS. CACCACCIO: Objection.

8 JUDGE ROSAS: Overruled. I'll allow that.

9 A Mark approved my availability, yes.

10 Q And you testified on direct examination that you wore a
11 union pin when you worked at the store; is that correct?

12 A That is correct, yes.

13 Q And you never received any discipline for wearing a union
14 pin, correct?

15 A No. I did not receive discipline for wearing a union pin.

16 Q And other union supporters also wore union pins, correct?

17 A That is correct.

18 Q And they also received no discipline for wearing a union
19 pin, correct?

20 A Correct.

21 Q With respect to the times that you testified that stores
22 closed early for meetings, were you aware of the actual
23 schedule as to when the store would close that day?

24 A We closed at 9 p.m. for --

25 Q That was -- that wasn't my question. The regular store

1 hours might have been closing at 9; is that correct?

2 A That is correct. Yes.

3 Q But -- but you don't know if that particular day on one of
4 the listening sessions if the store was scheduled to close
5 early; isn't that correct?

6 A I don't understand the question.

7 Q The store manager had discretion as to when to close the
8 store; isn't that correct?

9 MS. CACCACCIO: Objection. Speculation.

10 JUDGE ROSAS: I'll allow it if she knows.

11 A I don't. We would never -- we've never closed the store
12 early before, so I don't really understand what you're asking
13 me.

14 Q BY MS. POLITO: So since the time that you worked in July
15 of 2021, you never closed the store early to your knowledge?

16 A Not typically, it was very rare.

17 Q But they did close early on occasions, and that was done
18 by the store manager, correct?

19 A I don't know if that was his decision or if that was the
20 district manager's decision.

21 Q But the stores were, in fact, closed early on occasion
22 after you were hired in July of 2021?

23 A I don't remember between July and August if we closed
24 early for any reason.

25 Q You just testified a minute ago that there were times the

1 stores were closed early after you started working in July of
2 2021 separate and apart from the listening sessions; do you
3 recall that testimony?

4 A I am saying that I don't actually remember.

5 Q So then you don't remember that? A minute ago, you --

6 MS. CACCACCIO: Objection. Asked and answered.

7 JUDGE ROSAS: Sustained.

8 MS. CACCACCIO: The questions were confusing. The witness
9 answered them.

10 JUDGE ROSAS: Sustained. Let's -- let's bring it back to
11 the rare closing.

12 Q BY MS. POLITO: Were you aware that the store managers had
13 closed stores on occasions separate and apart from any
14 listening session?

15 MS. CACCACCIO: Objection. Asked and answered. The
16 witness testified she doesn't know that.

17 JUDGE ROSAS: Sustained.

18 Q BY MS. POLITO: Were there times when there were staffing
19 shortages at your store that required a closing -- or an early
20 closure?

21 A No. My store was very well staffed.

22 MS. POLITO: Nothing further, Judge.

23 JUDGE ROSAS: Redirect?

24 MS. CACCACCIO: Could I just have a minute, Judge?

25 JUDGE ROSAS: Sure. Off the record.

1 (Off the record at 10:58 a.m.)

2 MS. CACCACCIO: No redirect, Judge.

3 MR. DOLCE: Nothing from Charging Party.

4 JUDGE ROSAS: Your testimony is concluded. Thank you for
5 testifying. Do not discuss your testimony with anyone unless
6 you have been advised by counsel, okay?

7 THE WITNESS: Oh, thank you.

8 JUDGE ROSAS: Have a good day.

9 THE WITNESS: You, too. Thank you.

10 MS. POLITO: Judge, is it possible to have some type of
11 order asking that the witness be refrained from posting on any
12 social media where the attorneys or executives are saying
13 during the pendency of this law hearing, as it's wholly
14 inappropriate?

15 JUDGE ROSAS: Well, I've instructed the witness not to
16 discuss her testimony, and that was brought up during her
17 testimony.

18 MS. POLITO: Okay.

19 JUDGE ROSAS: So the matters that you brought up.

20 MS. POLITO: Fair enough. Thank you, Judge.

21 JUDGE ROSAS: Everything -- everything that she talked
22 about here is sacrosanct.

23 THE WITNESS: Thank you.

24 JUDGE ROSAS: You ready with your next?

25 MS. CACCACCIO: I have another one, but I need a sec.

1 (Off the record at 11:01 a.m.)

2 JUDGE ROSAS: Next witness, General Counsel? Next
3 witness.

4 MS. CACCACCIO: Brian Nuzzo.

5 Whereupon,

6 **BRIAN NUZZO**

7 having been duly sworn, was called as a witness herein and was
8 examined and testified as follows:

9 JUDGE ROSAS: All right. State and spell your name loudly
10 and give us an address.

11 THE WITNESS: My name is Brian Nuzzo, B-R-I-A-N N-U-Z-Z-O.

12 My address is (b) (6), (b) (7)(C)

13 (b) (6), (b) (7)(C) .

14 **DIRECT EXAMINATION**

15 Q BY MS. CACCACCIO: Brian, in front of you somewhere is a
16 lapel mic. Can you put it on?

17 A Okay.

18 Q Brian, what are your pronouns?

19 A He/him.

20 Q Did you ever work for Starbucks?

21 A Yes, I did.

22 Q When did you do that?

23 A From August of 2016 until March 21st of 2022.

24 Q What locations did you work at?

25 A For my first year, I worked at a store in New Jersey, in



1 Fair Lawn, New Jersey. And then I moved to Rochester and
2 worked at the Clover Commons Starbucks from September 2017
3 until they moved next door and opened -- we opened a new
4 location, which was the Brighton, Monroe and Clover Starbucks
5 in August of 2021.

6 Q Does that Clover Commons Starbucks go by any other name?

7 A Yeah. So some people just call it the Monroe Ave store or
8 just the Clover store.

9 Q Do you know the address of that store?

10 A The new one that opened last year is 2750 Monroe Avenue,
11 Brighton, New York.

12 Q When you worked for Starbucks, what was your role?

13 A I was a shift supervisor and a barista trainer.

14 Q When did you become a shift supervisor?

15 A In January of 2018.

16 Q And when did you become a barista trainer?

17 A About January of 2017.

18 Q What was your general schedule like when you worked at
19 Monroe Ave?

20 A Generally, I was opening shifts about five days a week.
21 The days would change week to week. And generally, it was four
22 weekdays and mostly Saturdays. And they were mostly all
23 opening shifts.

24 Q I think you maybe just said, but what shifts did you
25 typically work?

1 A Opening shifts.

2 Q Are you familiar with the Union, Workers United?

3 A Yes, I am.

4 Q When did you become familiar with the union?

5 A In the fall of 2021 after the first Buffalo stores filed
6 to unionize.

7 Q Did you have any role at the Union?

8 A Yes, I did.

9 Q What role is that?

10 A I became -- I -- I worked with them and became one of the
11 organizing people for the City of Rochester. Probably like
12 late November 2021.

13 Q Did you ever make your union support known publicly?

14 A Yes, I did.

15 Q How did you do that?

16 A The day we filed our petition to unionize on January 31st
17 of 2022, we sent out a letter with Workers United to -- I
18 posted on social media our letter of intent. And they also had
19 a press conference that afternoon with local media and
20 journalists were there.

21 Q If I showed you the tweet and the letter, would you be
22 able to recognize those?

23 A Yes, I would.

24 Q Directing your attention to General Counsel Exhibit 117
25 and 118. So in front of you should be a packet.

1 A Um-hum.

2 Q If you could pull out 117 and 118 and flip everything else
3 over.

4 A Okay.

5 Q Can you look at General Counsel Exhibit 117? What is
6 that?

7 A This is the tweet from Workers United that's dated on
8 January 31st, the day that we filed our petition.

9 Q And how did you come to have this image?

10 A I took a screenshot of their Twitter account.

11 Q And General Counsel Exhibit 118; what's that?

12 A This is our letter of intent that we had sent out to Kevin
13 Johnson, the CEO of Starbucks at the time.

14 Q Is your name on that letter?

15 A Yes. My name is the first one on the signatories.

16 Q Do you know what the white block is in the middle of 117?
17 In the middle of the tweet?

18 A Yes. That's the screenshot of this -- the letter of
19 intent.

20 MS. CACCACCIO: Your Honor, I would offer General Counsel
21 Exhibit 117 and 118.

22 JUDGE ROSAS: Respondent?

23 MR. BALSAM: No objection.

24 JUDGE ROSAS: General Counsel's 117 and 118 are received.

25 **(General Counsel Exhibit Numbers 117 and 118 Received into**



1 **Evidence)**

2 Q BY MS. CACCACCIO: What, if anything, did you do that the
3 letter went out?

4 A So the morning, I went in for my opening shift as normal.
5 And I pulled our manager into the back room to tell him
6 personally before he saw it anywhere else. I wanted him to
7 know our intentions and let him know that I was going to be
8 fully transparent with them throughout this process.

9 Q Who was that manager?

10 A His name was Raymond Ballard.

11 Q And what was his title; do you know?

12 A Store manager.

13 Q And what did you tell him specifically?

14 A I told him that were filing to unionize. I told him that
15 I'm sorry that we're not telling him until today. I told him
16 that I will be fully -- like I said, fully transparent
17 throughout this process with him, and that it's no -- nothing
18 personal against him and he had nothing to do with us wanting
19 to unionize. And I told him if he had any questions, feel free
20 to ask me and we could have an open dialogue about it.

21 Q Did he respond?

22 A He said he didn't understand --

23 MR. BALSAM: Objection. Nonresponsive. The answer is yes
24 or no.

25 A Oh, yes.

1 Q BY MS. CACCACCIO: What did he say?

2 A He said he didn't understand why we were wanting to
3 unionize, but he fully understood our right to do so.

4 Q Did you show your union support in any other way in your
5 store?

6 A Yes, I did.

7 Q What did you do?

8 A We wore our Workers United pins.

9 Q Which pin did you wear?

10 A It was a green pin that said Starbucks Workers United and
11 it had a hand held up holding a drink shaker in the middle of
12 it.

13 Q And how often did you wear that pin?

14 A Every day.

15 Q Turning your attention to March 4th, were you working that
16 day?

17 A Yes, I was.

18 Q What shift were you working?

19 A An opening shift.

20 Q And what happened that morning?

21 A That morning, well, I had already known from the night
22 before that at least one person was calling out for that
23 morning, and I had woken up to messages from two other people
24 calling out. And you know, it was around -- somewhere 4:30-ish
25 in the morning.

1 Q So what did you do?

2 A I decided to go to the store a few minutes earlier than
3 normal to try and make a plan. I wasn't sure with the three
4 call outs we were going to be able to even open the store. So
5 I decided to try and be proactive and go in a little earlier
6 than normal and figure out what I was going to do essentially,
7 and try to get ahold of our manager.

8 Q Who did you try to call that morning?

9 A I tried to call Ray Ballard a whole bunch of times and I
10 also tried to call at least one other barista to see if they
11 could possibly get someone else in at that point.

12 Q Do you have a call log from your attempts to call Ray
13 Ballard that morning?

14 A I do.

15 Q If I showed you a copy of it, would you recognize it?

16 A Yes, I would.

17 Q Looking at General Counsel Exhibit 119. And if you could
18 flip those over? Take 119 and flip everything else back over.

19 A Okay.

20 Q It's a two-page document. Take a look at it and let me
21 know when you're ready.

22 A I'm ready.

23 Q Do you know what it is?

24 A It's my call history to Raymond Ballard from that morning.

25 Q How do you know it's your call history to Raymond Ballard?

1 A It's cut off on the screen shot, but at the top, if you
2 scrolled up, it would show Raymond Ballard's name.

3 Q And what's the difference between page 1 and page 2?

4 A Just the -- it's too long -- it looks like it's too long
5 to fit on one page, so there were two screenshots, because it
6 was too long to fit on the one screenshot.

7 MS. CACCACCIO: Your Honor, I would now offer Exhibit 119.

8 MR. BALSAM: Your Honor, we object to the admissibility of
9 this document. There's no indication on this document at all,
10 the telephone number that's being called, the name of the
11 persons being called. For all we know, this could represent
12 any single person on the witness' call log -- or contact list.
13 And so without, I think, identifying the -- the number and/or
14 the recipients of these phone calls, this is not an appropriate
15 document to introduce into evidence?

16 MS. CACCACCIO: May I be heard, Judge?

17 JUDGE ROSAS: Do you have voir dire?

18 **VOIR DIRE EXAMINATION**

19 Q BY MR. BALSAM: You testified that this is a screenshot of
20 your cell phone, correct?

21 A Yes, sir.

22 Q But as we get in here, there's no name or phone number --

23 A The way my -- I'm sorry. The way my phone works, it --
24 because it was scrolled down so far, I can't get the -- the
25 name on the same screen as all this because I would have had to

1 go all the way to, like, the most recent calls, which were
2 after March 4th.

3 Q When you're looking at your phone, holding it up, are you
4 able to see the name of the person that you made the phone call
5 to?

6 A From the very top. So let's say, if I had other calls
7 from this person after March 4th, it would show the most recent
8 ones and as you scroll down, the name would scroll up off the
9 screen as you scroll further down.

10 MR. BALSAM: Your Honor, based on the witness' own
11 testimony, this is not an accurate image of his cell phone or
12 the call log with this particular individual. We don't even
13 know who the particular individual is, other than what the
14 witness has testified to. And for those reasons, I would say
15 that this is not an appropriate document to reflect what the
16 witness is testifying to.

17 MS. CACCACCIO: Might I be heard? The witness has just
18 testified that what Respondent's requesting, he can't do.
19 There's no relevance to the rest of the phone calls that --do
20 you want -- do you have a comment, Jackie?

21 MS. POLITO: No.

22 MS. CACCACCIO: -- that there's a -- that he can't -- he
23 can't do what's Respondent's requesting. The witness has
24 testified that this is his call log with Mr. Ballard, that --
25 that this is how it appears when he scrolls down and searches

1 for March 4th, which is the only relevant date at this point.

2 So putting in his entire call log with that person isn't
3 appropriate, and this is what his call history was for the
4 evidence on that date. If Respondent wants to inquire into
5 that further, they're welcome to, but this itself proves what
6 the witness is saying and how the witness got it. And he's
7 under oath to do that.

8 MR. BALSAM: It, in fact, doesn't prove what the witness
9 is saying at all. He's representing that this is a call log
10 for a particular person without the person's name being
11 identified on this document. It doesn't support anything that
12 was just said.

13 MS. CACCACCIO: Might I be heard?

14 JUDGE ROSAS: Last one.

15 MS. CACCACCIO: The witness has just said that what
16 Respondent is asking for, he can't do on his phone. He has
17 pulled this up from that person. It's for March 4th. It's the
18 complete call log for March 4th, and it is what it is.

19 JUDGE ROSAS: Objection overruled. The witness'
20 testimony, if credited, establishes that this is a copy of a
21 picture from his cell phone of a log of outgoing and incoming
22 calls, which according to his testimony, were to a cert -- Mr.
23 Ballard -- to Mr. Ballard's phone. So that suffices for
24 purposes of admissibility. The argument that the Respondent is
25 making goes to weight.

1 **(General Counsel Exhibit Number 119 Received into Evidence)**

2 Q BY MS. CACCACCIO: What is the opening procedure for your
3 store?

4 A So the normal opening procedure is, at 5:00 we go in -- 5
5 a.m., we go in and we start setting up for the morning, brewing
6 coffee. The keyholder will, you know, count the registers and
7 do the money stuff and the milk counts and take temperatures of
8 everything, while the other person makes coffee, teas, stocks
9 anything that needs to be stocked. And we set up sufficiently
10 to be able to open and operate the store.

11 Q And about how many people are typically there when you go
12 in on a normal morning?

13 A Two.

14 Q Prior to March 4th, had you ever gone into your store
15 alone to open?

16 A Yes.

17 Q About how many times over the course of your employment?

18 A Over the course of about five and a half years, I'd say a
19 few dozen.

20 Q And in those two dozen times that you've gone into the
21 store alone in the morning to open, have you ever been
22 disciplined for doing that?

23 A Not once.

24 Q And what would cause you to go into the store alone?

25 A There's a number of factors. For one, in Rochester, New

1 York in the winter, it gets very, very cold, especially at
2 4:30, 5 in the morning. So someone -- you know, instead of
3 waiting in my almost 20-year-old car, I would go in and try to
4 get warm. That's one of the possible reasons. Another reason
5 may be if -- if you show up and have to use the restroom.
6 There are other reasons that I know other people have used to
7 go in.

8 Q We'll get to -- yeah. We'll get to that --

9 A Yeah.

10 Q -- in just a second.

11 A Another thing would be for me, too, would be to not punch
12 in late myself. I would maybe go in to just punch in. And if
13 the other person is going to be late, you might go in early to
14 start setting up because you want to get the store opened and
15 operating and you only have 30 minutes to do so.

16 Q Had anyone from Respondent's management ever talked to you
17 about having gone in alone prior to what happened on March 4th?

18 A Not once.

19 Q Had you ever known anyone else to go into the store alone
20 when opening?

21 A Yes.

22 Q How did you know that?

23 A We've talked about it and I've shown up when someone else
24 was already in the building.

25 Q How often would you say that happened, that you would have

1 seen someone else be in there alone?

2 A Not -- not regularly, but it -- it -- you know, it's -- it
3 does happen. I don't have an exact number.

4 Q Do you know why other people in your store would go into
5 the store alone?

6 A I know specifically for at least one person --

7 MR. BALSAM: Objection. Nonresponsive.

8 A Yes. Sorry. Yes.

9 Q BY MS. CACCACCIO: How -- how do you know that?

10 A I know specifically for at least one other barista that --
11 shift supervisor, she did not have a license or a car, so she
12 relied on public transportation and/or ride sharing, such as
13 Ubers. And for someone who takes an Uber at, you know, 4:30,
14 4:45 in the morning, you get dropped off and for her to wait
15 out -- as I said, in -- the winters in Rochester can be
16 dangerously cold at that time --

17 MR. BALSAM: Objection. Relevance. Move to strike.

18 MS. CACCACCIO: Your Honor --

19 JUDGE ROSAS: I'm going to strike the response after the
20 individual during there.

21 THE WITNESS: Okay.

22 MS. CACCACCIO: Can you -- I just don't understand.

23 JUDGE ROSAS: Hearsay. Hearsay. Unless you're going to
24 have one of those individuals testify. The individuals who are
25 already there.

1 MS. CACCACCIO: Okay.

2 Q BY MS. CACCACCIO: To your knowledge, had anyone been
3 spoken to about going into the store alone?

4 MR. BALSAM: Objection. Asked and answered.

5 MS. CACCACCIO: Nope. I asked if he had been spoken to.

6 JUDGE ROSAS: Overruled.

7 MS. CACCACCIO: Your Honor, I don't know -- if we could go
8 off the record? I don't know which party representative is
9 going to have in the courtroom but I expect they will be
10 testifying. So they should have one at a time.--

11 JUDGE ROSAS: Off the record.

12 (Off the record at 11:25 a.m.)

13 JUDGE ROSAS: Back on the record.

14 MS. CACCACCIO: I think there was an objection to a
15 pending question.

16 JUDGE ROSAS: It was overruled.

17 MS. CACCACCIO: Okay.

18 **RESUMED DIRECT EXAMINATION**

19 Q BY MS. CACCACCIO: To your knowledge --

20 MS. CACCACCIO: Thank you.

21 Q BY MS. CACCACCIO: To your knowledge, had anyone been
22 spoken to about going into the store alone?

23 A No. Not that I'm aware of.

24 Q To your knowledge, had anyone been disciplined for going
25 into the store alone?

1 A No.

2 Q When was the store supposed to open on the morning of
3 March 4th?

4 A 5:30 a.m.

5 Q And at 5:30 a.m., how many employees were you supposed to
6 have in the store?

7 A We were supposed to have three at that point.

8 Q And how many were you going to have based on what you
9 know?

10 A Two.

11 Q Was that -- was two enough to open the store?

12 A Not sufficiently, no.

13 Q Why not?

14 A To run a cafe, a drive-thru and the registers, and do the
15 rest of the morning opening procedures such as if it's, you
16 know, a day we have to place an order, or do some inventory
17 stuff. We cannot sufficiently operate all the channels and
18 that also includes the mobile ordering and everything that goes
19 along with making drinks and take -- taking transactions for
20 customers with just two people.

21 Q You had mentioned that three partners had called out.
22 When were they supposed to arrive?

23 A It was staggered over the course from 5:30 until, if I
24 remember correctly, I want to say 8:30 or 9.

25 Q Do you remember how many partners you ended up having that

1 morning?

2 A We eventually had our third person come in -- it was
3 either 6 or 6:30 and then the fourth person didn't come in
4 until at least sometime after 7 or so.

5 Q What did the store open on March 4th?

6 A If I remember correctly, we opened the drive-thru only at
7 sometime -- it was either 7:30 or 8. We had four people and we
8 kept the cafe closed.

9 Q Was the cafe supposed to open that morning?

10 A Yes, it was.

11 Q Why didn't it?

12 A We didn't have enough people to operate all the channels
13 required to do cafe drinks and customers and also drive-thru
14 and mobile ordering at the same time.

15 Q When did you enter your store?

16 A Approximately 4:48 a.m.

17 Q Do you remember about when you clocked in?

18 A I would approximate about 4:56.

19 Q Do you remember when the next person who arrived punched
20 in?

21 A 5 a.m., approximately.

22 Q So how long were you alone in your store approximately?

23 A I would say approximately eight to ten minutes, maybe.

24 Q And what were you doing in those eight to ten minutes?

25 A I was looking at what's called the daily coverage report.

1 It shows who is working that day and what shifts. I was
2 looking at our schedules to see if anybody would be available
3 to possibly come in that morning. I had to look for partner
4 availability to see, like, if they are not working, are they
5 even available to work. And possibly, if I needed any contact
6 information, that would also have been in the store.

7 Q Could you have done that -- of the things you just
8 mentioned, could you have done that from outside the store?

9 A No. I could not.

10 Q Why not?

11 A I did not have that information available to me outside of
12 the store.

13 Q How often would you say in your time at Starbucks that you
14 clocked in at a different time than the person you opened with?

15 A Hundreds.

16 Q And why is that?

17 A There could be different factors.

18 Q What other factors?

19 A So something --

20 MR. BALSAM: Objection. This witness can only speak to
21 his own personal knowledge about when he had clocked in. He
22 can't speak to why other -- someone had clocked in at a later
23 time, or what the circumstances were if they clocked in later.

24 JUDGE ROSAS: Let's get the answer. I'm going to overrule
25 it at this point. Let's see what the answer it. Let's try to

1 keep it incremental so I don't have to strike entire answers.
2 Go ahead. You can answer.

3 A Thank you. So examples might be if I can come in, and I
4 might have to use the restroom first. Or as I stated, it can
5 be really cold in Rochester in winter, so I might be bundled
6 up. So I might go take off my hat, my coat, and my gloves
7 first while someone else might have punched in already.

8 Another thing that happens is sometimes you just forget
9 and then you might punch in a few minutes -- I might punch in a
10 few minutes later because I had forgotten to initially punch in
11 when I came in. Another issue that we -- we had was the iPads
12 that we used to clock in were very unreliable, and sometimes,
13 it would take at least a minute or two to even load, causing my
14 punch to be a minute or two later than I had planned on
15 punching in.

16 MR. BALSAM: Your Honor, I would move to strike any
17 testimony from this witness related to when other partners
18 clocked in. I'm not sure there's any testimony in the record
19 as -- as to when he would even know when another partner's
20 clocked in as if he would have access to some type of database
21 that showed someone else clocked in previously.

22 MS. CACACCIO: Your Honor, may I be heard? The witness
23 didn't elicit any of that testimony. That's not what he said.

24 JUDGE ROSAS: I'm going to overrule the objection to the
25 extent that, as I understood the answer, there were examples or

1 situations where he would have arrived and there was somebody
2 already there, and he talked about his own personal
3 circumstances. Next question.

4 Q BY MS. CACACCIO: Would you consider March 4th to still be
5 winter in Rochester?

6 A Yes, I would.

7 MR. BALSAM: Objection. He's not a meteorologist.

8 Q BY MS. CACACCIO: How long have you lived in Rochester?

9 JUDGE ROSAS: Yeah. Go ahead.

10 Q BY MS. CACACCIO: How long have you lived in Rochester?

11 A On and off, since 2004, every year except for five years,
12 from 2012 to 2017.

13 Q Was there still snow on the ground on March 4th, 2022?

14 MR. BALSAM: Objection. Relevance.

15 JUDGE ROSAS: I'll allow it. Cold has already been
16 injected into the story.

17 THE WITNESS: Yes, there was.

18 Q BY MS. CACACCIO: Up until March 4th, had you ever been
19 investigated for a discrepancy in your time log shifts?

20 A No, I had not.

21 Q Do you remember what day of the week March 4th was?

22 A It was a Friday.

23 Q What kind of customer traffic did your store have on
24 Fridays?

25 A Fridays are generally our busiest weekday of the week. We



1 saw a lot more traffic on Fridays. More people seemed to treat
2 themselves because it's the end of the week. So our general
3 volume would be --

4 MR. BALSAM: Objection.

5 A -- heavier.

6 MR. BALSAM: Move to strike all the parts that are not
7 responsive to the question.

8 MS. CACACCIO: Your Honor --

9 JUDGE ROSAS: I'll strike that latter part about people
10 treating themselves. Go ahead. Busiest day of the week, I'll
11 leave that in there.

12 Q BY MS. CACACCIO: What was the Employer's official masking
13 policy as of March 4th?

14 A As - as far as I'm aware of, the official masking policy
15 was that you must wear your mask at all times, even if you're
16 on your break, unless you are eating. It doesn't matter if
17 you're in the cafe or in the backroom.

18 Q Was that policy being followed as of March 4th?

19 A No, it was not.

20 Q Why not? What did you observe?

21 MR. BALSAM: Objection. To extent that the witness was,
22 in fact, working on any particular day, I think that he can
23 testify.

24 MS. CACACCIO: Your --

25 MR. BALSAM: But beyond that, how would he know the answer

1 to that?

2 MS. CACACCIO: Your Honor, the witness has testified about
3 their work schedule, how often they're in the store. He's
4 certainly allowed to testify to his observations.

5 MR. BALSAM: In the morning shifts when he was there. He
6 can't testify about what happened generally speaking at that
7 store because he wasn't there.

8 JUDGE ROSAS: Rephrase the question.

9 Q BY MS. CACACCIO: When you were at your store, Brian, what
10 did you see with respect to the masking policy being
11 enforced -- being followed?

12 A I saw that if -- if you were on your break in the back
13 room or sitting in the cafe, people would generally have been
14 mask off whether they were eating or not. And it was also --
15 when we were opening before the stores were open and when we
16 were closing after the doors were locked. So any time the
17 doors were locked, some people might not have their mask on at
18 all times while we're setting up or closing up a store.

19 Q How long had that been going on?

20 A Since probably nearly the beginning of the pandemic.

21 Q Were you ever disciplined?

22 A No, I was not.

23 Q Were you wearing your mask on March 4th before customers
24 arrived in your store?

25 A No, I was not.



1 Q Going back to your calls to Ray, did you ever get in touch
2 with him?

3 A Yes, I --

4 Q I'm sorry. On March 4th?

5 A Yes, I did.

6 Q Do you remember about what time he got back to you?

7 A About 5:25 a.m.

8 Q And what did he say?

9 A He instructed us to keep the store closed for the time
10 being until he can come up with a plan. He also instructed us
11 to -- so Friday is when we get our big weekly delivery. He
12 instructed us to work on putting that stuff away, which
13 normally we do as the course of the morning goes on. And he
14 also instructed us to do just minor odds and ends, some
15 cleaning tasks and, you know, things like that. Things that we
16 usually don't get to very often just to, you know, keep busy
17 and keep working while we were closed.

18 Q Do you ever remember putting your mask on that day?

19 A Yes, I do.

20 Q When did you do that?

21 A When we officially opened the drive-thru to -- to start
22 taking customers.

23 Q Did the masking policy ever change when you worked at
24 Starbucks?

25 A Yes, it did.



1 Q When did it change after March 4th?

2 A March 7th.

3 Q What did it change to on March 7th, if you know?

4 A Masks became optional.

5 Q On March 4th, did you do anything that you felt might get
6 you fired?

7 A No, I did not.

8 Q Why didn't you think that -- why did you think that it
9 might not get you -- that it wouldn't get you fired?

10 A Because, as I had already stated, I had been in the store
11 alone before and I'd never been disciplined or talked about
12 that. And also, based on the extenuating circumstances, in my
13 mind, I truly believed that I was being proactive and had zero
14 malicious intent by going in early. I was just really just
15 trying to help the store open and operate on time as we should
16 to keep the business going.

17 Q Directing your attention to March 8th, what, if anything,
18 happened that day?

19 A So March 8th, Raymond Ballard told me that his boss, our
20 acting DM, wanted to know more detail about what happened on
21 March 4th, specifically why the store wasn't open on time and
22 why I had punched in four minutes before the next person, and
23 questioned whether or not I was in the building alone at that
24 point.

25 Q And what did you tell Ray at that time?



1 A I told Ray that I would write up a draft for him to send
2 to her, and I told him -- I'd asked him, you know, can we talk
3 between me and you or not, and he said -- he implied that, you
4 know, he probably knew what might have happened. He instructed
5 me to write the email to her basically saying what --

6 MR. BALSAM: Objection. Move to strike. Hearsay.

7 JUDGE ROSAS: I'm striking any part starting with he
8 implied.

9 MR. BALSAM: Thank you.

10 MS. CACACCIO: Your Honor, might I be heard? Ray Ballard
11 was his supervisor. He's a party opponent. It's not hearsay.

12 JUDGE ROSAS: An implication at this point is
13 insufficient.

14 MS. CACACCIO: An implication that Raymond Ballard was his
15 supervisor or --

16 JUDGE ROSAS: For this witness -- for this witness to be
17 opining as to what someone implied as opposed to telling us
18 what the individual said is not sufficient for me.

19 Q BY MS. CACACCIO: What did Ray tell you?

20 A He instructed me --

21 Q Let me go back. What did you tell Ray?

22 A I told Ray that I will be -- I would comply and write the
23 email, and he instructed me to write an email what I would
24 think that she would want to hear.

25 Q Did you tell Ray what happened that morning?

1 A Not explicitly. He wasn't -- it was implied that he might
2 have known. That's --

3 MR. BALSAM: Objection. Move to strike.

4 JUDGE ROSAS: Sustained as to what -- what was implied.

5 Q BY MS. CACACCIO: Did he tell you that he knew?

6 A No.

7 Q Did you do what he asked?

8 A Yes, I did.

9 Q What did you do?

10 A The next day, I drafted up an email and gave it to him to
11 send to MK.

12 Q What did you put in the email?

13 A I told her that there could have been various reasons for
14 the time discrepancies in the punching in that I've already
15 stated, things that might happen. I explained to her that we
16 were instructed not to open the store on time. I explained to
17 her that, as far as I knew, when the store opened, everyone was
18 wearing their masks. And I explained to her that things had
19 happened later on that probably aren't relevant, but that
20 Marcus came in and instructed us to close down the store again
21 and then reopen the store again. So I explained to her those
22 things that had happened as well.

23 Q Was everything you said in your email to her true?

24 A No, it was not.

25 Q What -- what did you tell her that wasn't true?

1 A That I -- I told her that I hadn't been in the building
2 alone.

3 Q Why would you do that?

4 A I panicked. I was really caught off guard and I honestly
5 didn't know what to say. It was something she was
6 questioning -- questioning me about that, as I already stated,
7 had happened plenty of times before and it was never talked
8 about or even brought up, specifically the four-minute
9 discrepancy in the punching ins for me and my partner.

10 MR. BALSAM: Your Honor, I'm going to request that this
11 response be stricken from the record.

12 There's been no testimony at all that this witness ever
13 spoke to MK. He was asked to draft an email to give to his
14 supervisor for transition to MK.

15 JUDGE ROSAS: I have -- I have to hear the entire answer.
16 Can we try to go through it again?

17 MS. CACACCIO: Sure.

18 Q BY MS. CACACCIO: Go ahead, Brian.

19 A In the email that I had drafted to give to Raymond to pass
20 along to MK, I had originally said that I had not been in the
21 store alone, and I had panicked when --

22 JUDGE ROSAS: Hold on. Hold on. Is there a follow-up to
23 that?

24 Q BY MS. CACACCIO: Why did you do that?

25 A So Ray had come back to me and questioned me. He told me

1 that MK wanted to know the truth, but I had panicked because I
2 thought -- I didn't believe I did anything wrong at that point.
3 I believed that I was helping the store try to open on time,
4 and based on the extenuating circumstances, I believe my
5 actions were just and --

6 Q When you said Ray came back to you --

7 MR. BALSAM: Objection. Move to strike the previous
8 testimony as nonresponsive to the question.

9 MS. CACACCIO: Your Honor, I --

10 MR. BALSAM: He said he panicked and --

11 JUDGE ROSAS: She asked why. Overruled. Next question.

12 Q BY MS. CACACCIO: When you just said that Ray came back to
13 you, when was that?

14 A I believe it was March 10th, the day after I had given him
15 the email.

16 Q And -- and what did -- how did you hear from Ray?

17 A A phone call.

18 Q What did he tell you?

19 A He told me that MK didn't believe what I had written, and
20 she really wanted to know the truth. And she said she was
21 going to be looking at security footage to find the truth one
22 way or another, so if I was lying, that it -- I should tell her
23 the truth now. So I told him to let her know that I was really
24 sorry and that I had panicked. I had no malicious intent.

25 I just -- it just kind of escalated much quicker than I

1 would have ever thought because, again, we had never even been
2 talked about this -- doing this, going in beforehand early or
3 punching in at different times. So I instructed him to tell
4 her all these things and that I was really sorry and this is --
5 and I told her what really happened. And I told him to explain
6 the extenuating circumstances, and I had asked if I can speak
7 to her directly, which I was denied.

8 MR. BALSAM: Your Honor, to the extent the witness is
9 finished testifying, I again move to strike anything that's not
10 responsive. His feelings that were not communicated to Mr. --
11 his supervisor at the time were -- would be outside the scope
12 of the question, and therefore, would be nonresponsive.

13 JUDGE ROSAS: Is everything you just said what you told
14 Mr. Ballard?

15 THE WITNESS: Yes.

16 JUDGE ROSAS: To tell --

17 THE WITNESS: Yes, I told him to --

18 JUDGE ROSAS: -- the district manager.

19 THE WITNESS: -- to tell --

20 JUDGE ROSAS: Overruled.

21 Q BY MS. CACACCIO: Did you hear anything back from Ray
22 after that conversation?

23 A Yes, I did.

24 Q Oh. When -- when did you hear from him?

25 A It was within the next day or within a few days.

1 Q And what did he tell you?

2 A He told me that he passed along my message and that she
3 had opened up a case against me with the Partner Resources
4 people.

5 Q Did you speak with Ray at all about what was going to
6 happen next?

7 A Yes, I did.

8 Q What did you -- what did you ask him?

9 A So between then and March 21st, the day I was terminated,
10 I had asked him every few days if he had heard anything about
11 my case, and if he knew any --

12 Q What did -- what did he -- oh, sorry. Go ahead.

13 A I asked if he knew any -- had any information for me. And
14 again, I kept asking if I can speak with MK directly, myself,
15 or anybody that I can just -- I really just wanted to apologize
16 in person for having not been honest originally and sit down
17 and have an open dialog with her or somebody and explain to
18 them from myself directly and not through a third party my case
19 and -- and these -- the events of that morning. And he kept
20 telling me every --

21 Q What -- so what did he -- did he respond to you at all?

22 A Yes, he did.

23 Q What did he tell you?

24 A He kept telling me every time I asked that he had no
25 information, I would be the first person he told if he had any

1 information. He said he advocated for me to just have some
2 kind of a just written warning or a first warning of some kind,
3 not to be terminated, and that was all I knew at that point.

4 Q Were you worried about being terminated at this point?

5 MR. BALSAM: Objection. Relevance.

6 JUDGE ROSAS: I'll sustain that.

7 Q BY MS. CACACCIO: Did you ever talk to Ray about your
8 fears about being terminated?

9 MR. BALSAM: Objection. Asked and answered.

10 MS. CACACCIO: Nope. You just objected to it.

11 JUDGE ROSAS: What's that?

12 MS. CACACCIO: I asked if he had ever talked to Ray about
13 his fears of being terminated.

14 JUDGE ROSAS: Yeah, yeah. Is that relevant?

15 MS. CACACCIO: Yes, Judge, because it's going to go to
16 what the response was from Respondent's manager, which we're
17 going to hear about -- more about later.

18 JUDGE ROSAS: Try to work it some other way if you're --
19 if you're going to try to reach another point.

20 Q BY MS. CACACCIO: Did Ray talk to you about what his
21 involvement in the process was going to be?

22 MR. BALSAM: Objection. We already heard testimony on
23 this.

24 MS. CACACCIO: No, we didn't.

25 JUDGE ROSAS: I'll allow that. Overruled.

1 Q BY MS. CACACCIO: Go ahead.

2 A Can you say it again? I'm sorry.

3 Q Yep. I can try. Did Ray talk to you about what his
4 involvement in the process was going to be?

5 A Yes.

6 Q What did he tell you?

7 A He told me it was -- he had no involvement and that it was
8 out of his hands.

9 Q During this process, did you ever speak with MK?

10 A I did not.

11 Q Between March 4th and when you were let go on March 21st,
12 did you work?

13 A Yes, I did.

14 Q How often?

15 A My regular schedule that I'd been doing basically for my
16 whole time at Starbucks.

17 Q Now I want to direct your attention to March 21st. Were
18 you working that day?

19 A Yes, I was.

20 Q What happened?

21 A I went in business as usual, and I worked through my full
22 shift. At some point during my shift, Ray told me that Marcus
23 Rainford was going to speak with me about the events of March
24 4th. I had asked him if he knew what he wanted to say or what
25 he was going to -- he responded, he had no idea.

1 So it came time for my shift to be over and Ray -- and
2 Marcus hadn't shown up yet. So I asked him, what should I do?
3 He told me I could continue working, get a couple extra hours,
4 if need be until he showed up. So I ended up working a full
5 extra hour after my shift was over until he finally showed up.

6 Q Who is Marcus Rainford?

7 A He was our acting district manager slash I don't know his
8 exact titles. He -- but I know he was our acting district
9 manager at the time, I believe.

10 Q So did you ever have that conversation?

11 A Yes, we did.

12 Q Who was part of that conversation?

13 A It was me, Marcus, and Raymond.

14 Q Where did you have that conversation?

15 A In the cafe at one of the tables.

16 Q And how long did it last?

17 A Five to ten minutes.

18 Q What happened during this conversation?

19 A So I was sat down. Marcus asking me how I was doing. I
20 told him --

21 Q Did you respond?

22 A Yes, I did.

23 Q What did you say?

24 A I told him I wasn't really sure because I had -- you know,
25 he was sitting down to talk with me so I wasn't really sure how

1 I was going to be feeling.

2 Q What happened next?

3 A He explained to me that, based on the events of March 4th,
4 that I was being separated from the company, and he went
5 through the details, gave me the paper to sign, my separation
6 paper, and I --

7 Q Did you respond?

8 A Yes, I did.

9 Q What did you tell him?

10 A I tried to explain the situation and I tried to ask him
11 questions. He said it was too late for questions or any
12 explanations. He would not let me elaborate on anything. He
13 said the decision had already been made and there was nothing I
14 can do about it at that point.

15 Q Did you ask any questions?

16 A Yes, I did.

17 Q What did you ask?

18 A I tried to ask why I wasn't talked to or given any kind of
19 warning beforehand.

20 Q What did he say?

21 A To which he replied it was -- it was too late and there
22 was nothing that could be done.

23 Q Do you ask him anything else?

24 A I just was trying to figure out why I was being fired. I
25 wanted the -- I just wanted to know, again, why I wasn't able

1 to talk to anybody throughout this whole month that this was
2 going on.

3 MR. BALSAM: Objection. Move to strike as nonresponsive.
4 He said, no, and then started saying that there were other
5 things he spoke about.

6 JUDGE ROSAS: Yeah. It's -- it's not really going
7 anywhere at this point. Let's see if there's any other
8 question. Overruled.

9 Q BY MS. CACACCIO: Did Ray talk in this meeting?

10 A Very little.

11 Q Did you ask about that?

12 A Later on, I did, yes.

13 Q And what did you ask about that?

14 A I -- I eventually asked if Ray was -- had any -- I said,
15 what about Ray? He's been my manager for almost five years.
16 Does he have any say in this? To which Marcus replied that Ray
17 had advocated and vouched for me, but his decision ultimately
18 didn't matter.

19 Q And did you respond to that?

20 A Yeah, I got emotional. I -- you know, I've just been
21 fired. I started getting emotional. And then Marcus told me
22 that he really cared about me and he wanted to help me along
23 these next steps in my journey, to which --

24 Q What happened -- what happened then?

25 A That made me very angry because I truly do not believe

1 that he cared about me at all. Excuse my language. I told him
2 that that was fucking bullshit. I told him that he didn't care
3 about us. I told him that everybody in this place hates him
4 and that he's made everybody's life miserable, which is
5 corroborated by the fact that at least ten partners have filed
6 formal complaints against him to the Company --

7 MR. BALSAM: Move to strike as part of the testimony.

8 JUDGE ROSAS: This is what he's telling the district
9 manager, right?

10 MR. BALSAM: I don't think that's what he's testifying to,
11 Your Honor.

12 JUDGE ROSAS: Just tell us what you told --

13 THE WITNESS: This is what --

14 JUDGE ROSAS: -- the district manager.

15 THE WITNESS: I told him, yes.

16 JUDGE ROSAS: After -- after you told him -- gave him the
17 F-word, what else did you say?

18 THE WITNESS: I -- I told him, how could you care about
19 me? You just upended my life. I -- I questioned how I'm going
20 to pay for my mortgage. I have a new car that I just leased.
21 How am I going to pay for that? I commented how I was going to
22 lose my insurance and told him that I have prescriptions that I
23 need filled and appointments that are going to have to be
24 canceled, medical appointments. And he smugly replied --

25 MR. BALSAM: Objection. Move to strike that

1 characterization of the witness, smugly replied.

2 MS. CACACCIO: Your Honor --

3 JUDGE ROSAS: I'll allow that. That -- that's based on
4 his perception.

5 THE WITNESS: He --

6 JUDGE ROSAS: It's sufficiently based on personal
7 observation. You can probe on cross.

8 MR. BALSAM: Thank you.

9 THE WITNESS: He said that -- he questioned -- he asked if
10 I had COBRA, to which I replied, no, I don't have fucking
11 COBRA. I have insurance through this fucking job, you idiot.
12 At that point, I took off my apron and I slammed it on the
13 table. Then he was going to -- he told me that he going to
14 have to have me leave and he was going to escort me to the back
15 room to get my belongings.

16 Q BY MS. CACACCIO: What did you say?

17 A I said, do you think I'm a fucking criminal, that I'm
18 going to fucking steal from this place? So we got up, went to
19 the back room. There was a pastry cart in front of the lockers
20 which I pushed -- pushed out of the way. I got my belongings,
21 and we went to the front door, and on my way out, I told him to
22 kiss my ass.

23 Q If I showed you a copy of your termination, would you
24 recognize it?

25 A Yes, I would.

1 MS. CACACCIO: I'm showing the witness General Counsel
2 Exhibit 121. Take that one. Flip everything else over.

3 Q BY MS. CACACCIO: What's General Counsel Exhibit 121?
4 What is it?

5 A That's my termination letter.

6 Q And how did you come to have this image?

7 A I took this picture.

8 MS. CACACCIO: Your Honor, I offer General Counsel's
9 Exhibit 121.

10 MR. BALSAM: Voir dire.

11 **VOIR DIRE EXAMINATION**

12 Q BY MR. BALSAM: Is this a complete copy of the document
13 you received when you were terminated?

14 A Yes, it is.

15 Q There's no second page?

16 A No, there's not.

17 MR. BALSAM: All right. Nothing further, Your Honor. No
18 objection.

19 JUDGE ROSAS: General Counsel's 121 is received.

20 **(General Counsel Exhibit Number 121 Received into Evidence)**

21 **RESUMED DIRECT EXAMINATION**

22 Q BY MS. CACACCIO: At any point during this conversation
23 were you told that you would not be welcome to come back to the
24 store?

25 A No, I was not.

1 Q At the time you were fired, had you voted in your store's
2 Union election yet?

3 A No, I did not.

4 Q Did you ever go back to the store after you were fired?

5 A Yes, I did.

6 Q When was -- when was first time you did that?

7 A The following day, March 22nd.

8 Q Why did you go back to the store that day?

9 A I wanted to go in and explain to some of my coworkers who
10 I hadn't seen yet, from my mouth, what had happened. I didn't
11 want any rumors or anything going around.

12 Q So what happened when you got there?

13 A So when I showed up, I saw one of my -- my coworking
14 friends sitting on break in the cafe, and he's like, what
15 happened? You know, and I started to explain my story. And
16 Marcus was there working. He was behind the counter further
17 away. So he saw me talking to my ex-coworker at this point, he
18 came over to me and told me that I was going to have to leave.

19 Q Had you said anything to him at that point?

20 A I did not.

21 Q What did he tell you? What did Marcus tell you?

22 MR. BALSAM: Objection. Asked and answered.

23 MS. CACACCIO: Nope. I asked --

24 JUDGE ROSAS: Did Marcus tell you?

25 MS. CACACCIO: Correct.

1 MR. BALSAM: He said you have to leave. That's what he
2 testified to two seconds ago.

3 MS. PENDER-STANLEY: The question was what happened.

4 MS. CACACCIO: The question was what happened. The
5 question now is what did Marcus tell you about you having to
6 leave? I didn't ask that question previously. He just --

7 JUDGE ROSAS: Did he say anything else?

8 THE WITNESS: Yes, he did.

9 Q BY MS. CACACCIO: What else did he say?

10 A He told me, based on the interactions from the previous
11 day, that I made him feel unsafe and uncomfortable, that he was
12 going to have to ask me to leave or he was going to call law
13 enforcement if I didn't.

14 Q What did you say?

15 A I told him I thought it was crazy, but I said I'll leave.
16 And I told him that everything I said the previous day about
17 everybody disliking him, I meant.

18 Q When you left the store, did he tell you that you weren't
19 welcome to come back?

20 A No, he did not.

21 Q Did you ever go back to the store after that?

22 A Yes, one last time.

23 Q When was that?

24 A The following Sunday. I believe it was March 27th.

25 Q Why did you go back?

1 A Generally, on Sundays, if I wasn't working, it was part of
2 my regular routine to -- if I got up early, I would go into the
3 cafe and just get some morning coffee and hang out in the cafe
4 for a little bit. So it was just part of my, like, usual
5 routine. And then I could also see some other people who I
6 hadn't seen yet who I didn't get to see all week who I normally
7 would have seen had I not been fired.

8 Q What -- what happened when you got to the store?

9 A I ordered my coffee, and I was just hanging out talking to
10 some of my friends by where the drinks are handed off. And as
11 I'm waiting, Marcus Rainford showed up into the building.

12 Q And what did you do?

13 A I moved further away into one of the corners -- towards
14 one of the corners of the store to keep my distance from him.

15 Q What happened next?

16 A He saw me and he came over to me.

17 Q What did you say?

18 A I said -- all I said was, I'm not talking to you.

19 Q And what did he say?

20 A He said that he needed to speak with me.

21 Q And what did you say?

22 A I said, listen, I'm just here to get my coffee, and I'll
23 be on my way.

24 Q What happened then?

25 A He told me that -- he notified me that I was being

1 officially banned from all Starbucks everywhere.

2 Q And what did you do?

3 A I questioned it. I asked why. I said, what -- you know,
4 this is the first I'm hearing about this. He said that he was
5 going to call law enforcement if I didn't leave. And I said I
6 already paid for my drink. I'm just waiting for it to be done.
7 He had said that he'd give me a refund, but by the time he had
8 finished that sentence, my drink was done. So I asked if we
9 can just sit down and talk.

10 Q Did you do that?

11 A Yes, we did.

12 Q What happened?

13 A I apologized for my emotional behavior. I just -- I
14 explained, you know, I had just been fired and I was acting
15 irrationally for some of the things I said. I said I had had a
16 week now to digest and process everything, and I'm calm, and
17 I'm kind of just looking for answers at this point. So you
18 know, I -- I try -- I had him explain the banning. He said he
19 had tried to call me during the week, which I have no messages
20 left from him. I had a number from him. I didn't have his
21 number in my phone, so I ignored it. It was an unknown number.

22 He basically told me it was too late to file -- or it's
23 already been processed. I would no longer be welcome in any
24 Starbucks anywhere, you know, in the country. He also told me
25 he wanted me to know that it wasn't his decision to fire me.

1 Q Did you respond to that?

2 A Yes, I did.

3 Q What did you say?

4 A I said -- I asked whose decision was it? And he told me
5 it was ultimately up to my direct supervisor.

6 Q What did you say?

7 A I said, Ray? And he said, is Ray your direct supervisor?
8 And I said, yes. And he said, well, all I'm going to say is
9 it's -- was the decision left up to your direct supervisor,
10 which I questioned. I -- you know, we had already established
11 during my termination that Ray had advocated for me not to be
12 fired, so I left very confused.

13 He said that he's going to have to ask me to leave now,
14 and if I still -- I -- to feel free to reach out to him at any
15 point, and for more information on my termination, to contact
16 the Partner Contact Center.

17 Q So did you leave?

18 A Yes, I did.

19 Q If I showed you a copy of your restriction notice would
20 you be able to recognize it for us?

21 A Yes, I would.

22 Q If you could look at General Counsel's Exhibit 122. Can
23 you tell me what that is?

24 A It's my restriction notice from all Starbucks.

25 Q Do you see the date in the upper right-hand corner?

1 A Yes, I do.

2 Q Is that the date you received this notice?

3 A No, it's not.

4 Q Do you know what that date is?

5 A The date I received the notice or the date on this paper?

6 MS. CACACCIO: I'm going to strike that. Don't answer
7 that. That ruins the question.

8 Q BY MS. CACACCIO: Is this a complete copy of your
9 restriction notice?

10 A Yes, it is.

11 MS. CACACCIO: Your Honor, I offer General Counsel's
12 Exhibit 122.

13 MR. BALSAM: Voir dire.

14 JUDGE ROSAS: Um-hum.

15 **VOIR DIRE EXAMINATION**

16 Q BY MR. BALSAM: How did you receive a copy of this -- this
17 notice?

18 A Through a text message.

19 Q Who did you receive the text message from?

20 A Marcus Rainford.

21 Q On what date did you receive the text message from? On --

22 A March --

23 Q -- what date did you receive the text message?

24 A What date? It was March 27th, I believe. The day that I
25 was there when he told me. It was March 27th.

1 Q Was there anything else accompanying the text message
2 other than this -- the text that is reflected here in GC
3 Exhibit 122?

4 A Yes, there was.

5 Q What else is -- what else was there?

6 A Well, he had just told me that I could reach out to
7 Partner Contact Center for more information about my
8 separation. He told me that --

9 MS. CACACCIO: Your Honor, I'm going to object. Outside
10 voir dire. We have that. Next.

11 JUDGE ROSAS: You can answer.

12 THE WITNESS: Well, he -- he essentially told me to
13 contact Partner Contact Center for information, and he ignored
14 the rest of my other questions I had.

15 MR. BALSAM: I have nothing further. No objection.

16 JUDGE ROSAS: General Counsel's 122 is received.

17 **(General Counsel Exhibit Number 122 Received into Evidence)**

18 **RESUMED DIRECT EXAMINATION**

19 Q BY MS. CACACCIO: So we just established how you received
20 that notice was by text. Do you have a copy of those texts?

21 A Yes, I do.

22 Q If I showed you them, would you be able to identify them?

23 A Yes, I would.

24 Q Please look at GC Exhibit 123. It's three pages. Let me
25 know when you've had a chance to look at it.



1 A Okay.

2 Q What is GC Exhibit 123?

3 A Yes.

4 Q What is it?

5 A It's my text message records for -- with Marcus Rainford
6 over the course of, I'd say, about a month.

7 Q Are there any texts that you had with him that are not
8 reflected in this from March 27th to April 19th?

9 A No.

10 Q If you look at the bottom of the first page, top of the
11 second page, that restriction notice, is that what you told
12 Respondent's Counsel about you receiving this restriction
13 notice?

14 A Yes.

15 MS. CACACCIO: Your Honor, I ask for General Counsel's
16 Exhibit 123.

17 MR. BALSAM: No objection.

18 JUDGE ROSAS: General Counsel's 123 consisting of three
19 pages is received.

20 **(General Counsel Exhibit Number 123 Received into Evidence)**

21 Q BY MS. CACACCIO: So what happened after you were notified
22 about your ban? What did you do?

23 A I contacted Partner Contact Center as he instructed. They
24 didn't have any information for me on the ban or my separation.
25 They directed me to -- my questions about my separation on

1 who's decision it was, they directed me back to the person who
2 notified me that I was terminated.

3 Q And who was that?

4 A That was Marcus Rainford.

5 Q So what did you do?

6 A I -- first, I called him and left him a voicemail, telling
7 him what they told me, the Partner Contact Center had -- that
8 they directed me back to him.

9 Q Then what did you do?

10 A And I had no response from him.

11 Q Okay.

12 A And then I sent him several text messages basically saying
13 the same thing, as you can see here, that I still haven't heard
14 back from you, and I still have questions that were unanswered,
15 and I hope to hear back from him soon. You know, they reach a
16 week or so apart. I just -- I hadn't heard back from him at
17 all. The last thing he sent me was the picture of my
18 restriction from the stores. And then I gave up. The last one
19 was April 19th. I just assumed he wasn't going to get back to
20 me, and I wasn't allowed to go into the store to talk to him,
21 so that was the last contact I had from him.

22 Q Do you see on this customer restriction notice where it
23 says that you attempted to damage company property? Do you
24 know what that's about?

25 A No. And that's what I asked in one of my text messages as

1 well. I said I'd also like to know how I attempted to damage
2 company property. I don't know anything I did other than slam
3 the chair into the table when I got up and pushed the pastry
4 cart out of the way of the locker. Nothing was -- that was
5 done maliciously. I was just angry that I was being --

6 Q Okay.

7 A -- that I had been fired. So I don't know -- I didn't
8 attempt to damage property.

9 MS. CACACCIO: If I could just have a moment?

10 Are we on?

11 Q BY MS. CACACCIO: Did you ever try to go back to any
12 Starbucks store after your ban?

13 A No, I haven't.

14 MS. CACACCIO: No further questions for this witness at
15 this time.

16 JUDGE ROSAS: Thank you.

17 MS. CACACCIO: But I offered 123, right? I'm sorry.

18 MS. PENDER-STANLEY: Yeah, that's in there.

19 MS. CACACCIO: Okay. Okay.

20 MS. PENDER-STANLEY: Yeah.

21 MS. CACACCIO: Sorry.

22 JUDGE ROSAS: Anything from the Charging Party?

23 MR. DOLCE: I -- I just have a couple questions.

24 **DIRECT EXAMINATION**

25 Q BY MR. DOLCE: Brian, hi. Mike Dolce on behalf of the



1 Union. So you labeled Marcus Rainford as the acting district
2 manager at the time of the -- of March 21st. When did Marcus
3 Rainford become the acting district manager, if you know?

4 MR. BALSAM: Objection. Leading, compound.

5 JUDGE ROSAS: There was testimony about an acting district
6 manager. I'll allow it.

7 THE WITNESS: I'm not exactly sure. All I know is I was
8 told he was the acting district manager. We had about five
9 acting district managers in about a six-month span, so it was
10 very confusing to keep track of who and what exactly
11 everybody's exact titles were during those times.

12 Q BY MR. DOLCE: So was there a district manager along with
13 the acting district manager at the same time?

14 A I'm not entirely sure who was who.

15 Q And do you know where Marcus Rainford is -- is -- where he
16 was transferred from?

17 MR. BALSAM: Objection. Relevance.

18 JUDGE ROSAS: I'll allow it.

19 THE WITNESS: Somewhere in California, he came from.

20 Q BY MR. DOLCE: And before August of 2021, in your tenure
21 before that period, did you ever have a district manager and
22 acting district manager?

23 A No, we had a permanent district manager up until he left
24 the company in the fall of 2021.

25 MR. DOLCE: Okay. Nothing further.

1 JUDGE ROSAS: Off the record.

2 (Off the record at 12:09 p.m.)

3 **CROSS-EXAMINATION**

4 Q BY MR. BALSAM: It's Mr. Nuzzo, correct?

5 A Yes.

6 Q Mr. Nuzzo, when you were first started working for
7 Starbucks, were you provided a -- a -- a copy of the partner
8 guide?

9 A Yes, I was.

10 Q And included within that partner guide are multiple
11 policies and procedures relating to your employment at
12 Starbucks, correct?

13 A Yes.

14 Q And of those policies and procedures, one policy is
15 Starbucks' safety and security policy, correct?

16 A Yes.

17 Q And another policy is Starbucks' facial covering policy,
18 correct?

19 A That's a new one. That wasn't in my original guide --

20 Q Okay.

21 A -- so I -- I don't know what the new one says.

22 Q At some point in time, though, you did receive a copy
23 Starbucks' facial covering policy?

24 A Yes.

25 Q Okay. And upon your receipt of both the part -- of the



1 partner, which included the safety and security policy, and
2 then your subsequent receipt of the facial covering policy, you
3 agree to abide by those policies, correct?

4 A Yes.

5 Q Now, turning to the events of March 4th, 2022, when you
6 entered the store alone, you knew at that time that you were,
7 in fact, violating the policy -- the Starbucks' policy with
8 respect to safety and security, correct?

9 A Yes.

10 Q And when you were inside the store not wearing a face
11 mask, you knew at that time that you were in violation of
12 Starbucks' facial covering policy, correct?

13 A Correct.

14 Q And isn't it true that you did not have to go into the
15 store on March 4th, 2022 by yourself?

16 A Correct.

17 Q Correct. There -- there was really no reason for you to
18 go into the store at all at that time, correct?

19 A That's not correct.

20 Q You had not spoken to your manager prior to your entering
21 the store, correct?

22 A No, I did not.

23 Q So why didn't you wait for your -- to hear back from your
24 manager before entering the store?

25 A Because I -- there were materials in the store that I

1 could have used to get a jump on the situation of having three
2 people call out that morning.

3 Q But didn't you testify that at 5:00, you believe the
4 second person showed up, correct?

5 A Yes.

6 Q Okay. So as of 5:00 a.m., two -- two individuals were, in
7 fact, in the store?

8 A Yes.

9 Q And that that would be -- would have been in compliance
10 with Starbucks' safety and security policy, correct?

11 A Yes.

12 Q You subsequently testified that when you were questioned
13 about what occurred on March 4th, you had provided a statement,
14 a written statement, to your manager, Ray, correct?

15 A Yes.

16 Q And you admit -- admit that you lied in your statement to
17 Ray, correct?

18 A Correct.

19 Q And fast forwarding to March 21st, 2022, you received
20 notice of termination, correct?

21 A Correct.

22 Q You testified to -- earlier that, to your knowledge, no
23 one had ever been disciplined for violating the safety and
24 security policy or facial covering policy, correct?

25 A Correct.

1 Q Are you aware of any other partner who has been terminated
2 for be -- making untruthful statements in connection with an
3 investigation?

4 A No.

5 Q So it's possible that there other partners out there who
6 were, in fact, fired for making untruthful statements to
7 management, correct?

8 MS. CACACCIO: Objection. Speculation.

9 JUDGE ROSAS: Sustained.

10 Q BY MR. BALSAM: Now, on the stand, during direct
11 examination, you were -- you provided us with sort of a play-
12 by-play of your discussion with Ray and Marcus at the time of
13 your termination. Do you remember that testimony?

14 A Yes, I do.

15 Q Okay. And from my notes, you told the Court that when you
16 received notification of your termination, you told Marcus that
17 this was "fucking bullshit", and that everyone hated him,
18 correct?

19 A Correct.

20 Q That he's "made everyone's lives miserable at the store
21 ever since he's been here", correct?

22 A Correct.

23 Q That he "did not fucking care about partners", and that
24 "if he cared about partners, then he would not have terminated
25 you", correct?

1 A Correct.

2 Q And then there was some discussion about you not having
3 "fucking COBRA", that you "had insurance through this fucking
4 job, you idiot", to that -- to that extent, correct?

5 A Correct.

6 Q What you didn't mention is that he told him that you --
7 you hoped he died. Do you remember that?

8 A I believe I did mention that.

9 Q Why didn't you mention to the Court that you had said to
10 him that he hoped -- you hoped he died?

11 A As far as I'm aware, I did say that earlier.

12 Q Okay. So you did, in fact, tell him you hoped he died?

13 A Yes, I did.

14 Q Okay. Then the following day, on March 22nd, you returned
15 to the store, and Marcus indicated to you that he was
16 threatened by your presence, correct?

17 A Correct.

18 Q The day after you told him you -- that you hoped he died.

19 A Correct. I did not know he was going to be there when I
20 arrived at the store.

21 Q You've answered my question. Thank you. And in fact,
22 when you were there, before you left, you said that "everything
23 I said before was true", correct?

24 A Regarding the partners not -- disliking him.

25 Q Did you specify that to him when you told that to him?

1 A I did.

2 Q In your affidavit that you provided to the Board in this
3 matter, all it says is, "I want you -- I -- I -- I want to let
4 you know that everything I said to you yesterday, I meant it."

5 A That was in regards to the partners disliking him.

6 Q Okay. So your testimony now is that at that point in
7 time, you did not inclu -- did not mean to include the fact
8 that you hoped he had died?

9 MS. CACACCIO: Objection. Argumentative. It's --.

10 MR. BALSAM: It's cross.

11 JUDGE ROSAS: Overruled. He can answer.

12 A It was in the heat of the moment. I had just been fired,
13 so I was angry.

14 Q BY MR. BALSAM: Mr. Nuzzo, is it your contention that you
15 were allowed to act in the manner you did unilaterally, because
16 it would the -- in the heat of the moment that you're allowed
17 to threaten people?

18 MS. CACACCIO: Objection.

19 JUDGE ROSAS: I'm going to sustain that.

20 Q BY MR. BALSAM: During your direct exam, you testified
21 that you were unsure -- you agreed with the statements that
22 were -- were in the customer restriction notice, GC Exhibit
23 122, about you making derogatory statements at partners, that
24 you disrupted the store environment with vulgar language, but
25 you took issue with the last point here, with respect to

1 attempting to damage company property. Do you remember that
2 testimony?

3 MS. CACACCIO: Objection. Assumes facts not in evidence.
4 I didn't ask Brian about his personal belongings.

5 JUDGE ROSAS: Okay. I'm going to --

6 MR. BALSAM: The document itself is in evidence.

7 JUDGE ROSAS: I'm -- I'm going to -- the easiest way to do
8 this is to sustain the objection.

9 Ask him about the last part as succinctly as you can.

10 Q BY MR. BALSAM: On direct examination, you testified that
11 you did not agree with the statement in the customer
12 restriction notice, dated March 22nd, 2022, about attempting to
13 damage company property. Do you remember that?

14 A Yes, I do.

15 Q And then subsequent to you saying that, you did say that
16 you had pushed a cart?

17 A Yes.

18 Q Do you remember that?

19 A Yes. The -- but it wasn't an attempt to damage.

20 Q But you're distinguishing between intent and lack of
21 intent?

22 A Yes, because the cart was in the way of the locker, so I
23 pushed it.

24 Q But nothing in this customer restriction notice says
25 anything about an intent to damage company property, or not

1 having attempt to damage company property?

2 MS. CACACCIO: Objection. Cumulative. It's already in
3 evidence.

4 JUDGE ROSAS: I'll allow it. If he can answer that?

5 A I did not attempt to damage property. I simply just
6 pushed the cart, not as an attempt to damage it, just as an
7 attempt to move it out of the way.

8 Q BY MR. BALSAM: Is your testimony right now that you're
9 moving of the cart was not an aggressive -- in an aggressive
10 manner?

11 A It was in -- aggressive, but I did not attempt to damage
12 it. I did not set out to cause damage, just to move it
13 aggressively.

14 MR. BALSAM: Nothing else.

15 JUDGE ROSAS: Redirect?

16 MS. CACACCIO: Can I have a minute?

17 (Counsel confer)

18 MS. CACACCIO: Nothing further, Judge.

19 MR. DOLCE: Nothing from Charging Party.

20 JUDGE ROSAS: Sir, your testimony is concluded. Do not
21 discuss your testimony with anyone until you are advised
22 further by Counsel, okay?

23 THE WITNESS: Yeah.

24 JUDGE ROSAS: Have a good day.

25 THE WITNESS: Thank you so much, Judge.

1 MS. CACACCIO: Could we have five to get our next witness
2 ready?

3 JUDGE ROSAS: Off the record.

4 (Off the record at 1:27 p.m.)

5 JUDGE ROSAS: General Counsel, next witness?

6 MS. PENDER-STANLEY: General Counsel calls Jaz Brisack.
7 Whereupon,

8 **MIKAELA JAZLYN BRISACK**

9 having been duly sworn, was called as a witness herein and was
10 examined and testified as follows:

11 JUDGE ROSAS: All right. State and spell your name,
12 provide us with an address, always speaking in a loud voice so
13 everybody can hear you, okay?

14 THE WITNESS: Full legal is Mikaela Jazlyn Brisack. I go
15 by Jaz Brisack. And that's M-I-K-A-E-L-A, J-A-Z-L-Y-N,
16 B-R-I-S-A-C-K. Address is (b) (6), (b) (7)(C)
17 (b) (6), (b) (7)(C) .

18 **DIRECT EXAMINATION**

19 Q BY MS. PENDER-STANLEY: Hi Jaz.

20 A Hello.

21 Q What are your pronouns?

22 A Any pronouns are fine.

23 Q Jaz, are you familiar with Starbucks Corporation?

24 A I am.

25 Q How so?



- 1 A I have worked for Starbucks since December of 2020.
- 2 Q What location do you work at?
- 3 A The Elmwood -- Elmwood store.
- 4 Q How long have you worked at Elmwood?
- 5 A The entire time, so since December of 2020.
- 6 Q And what job position do you hold at Starbucks?
- 7 A I'm a barista.
- 8 Q Are you familiar with Workers United?
- 9 A I am.
- 10 Q And are you familiar with the Starbucks Workers United
- 11 organizing committee?
- 12 A I am.
- 13 Q How are you familiar with the organizing committee?
- 14 A I am a founding member of the organizing committee.
- 15 Q And what did you do as a founding member?
- 16 A I was part of effort. Started organizing the stores
- 17 and -- and I helped put together the first peer meeting and
- 18 helped us get the campaign public.
- 19 Q Jaz, how did you express support for the Union while at
- 20 work?
- 21 A I always wear at least one union pin.
- 22 Q And what's the current status of the Union at your store?
- 23 A We're certified.
- 24 Q Who was your store manager in August 2021?
- 25 A Patty Shanley.

1 Q Did Patty ever stop being your store manager?

2 A Yes.

3 Q When was that?

4 A We got a second store manager as part of a transition
5 period in February, and then Patty officially left in May of
6 2022.

7 Q And who's your current store manager?

8 A Merley Alameda-Rulon.

9 Q As for the campaign --

10 JUDGE ROSAS: Can we -- can we just get that clarified?
11 The masks kind of obscure sometimes. Say that one more time,
12 the name of the manager?

13 THE WITNESS: The current one? Merley, with an E,
14 Alameda-Rulon.

15 Q BY MS. PENDER-STANLEY: Did you have any conversations
16 with Patty Shanley in August 2021?

17 A I did.

18 Q Tell me about the first conversation you recall with her
19 in that month.

20 A So the first time I tried to reach her was, I think the
21 23rd, when we went public. I called and left a voice mail
22 saying, like, hey, this is happening. This isn't a personal
23 thing. The first conversation I actually had with her was at
24 work in the very end of August. It was while the first
25 listening sessions were being scheduled, and I was asking about

1 whether I could attend one of those, and I also was saying, you
2 know, this isn't a personal thing. This isn't about you. In
3 fact, you know, we would go on strike if anything happened to
4 you because, you know, we support you. She said that that was
5 nice, but that there -- this wouldn't be happening if there
6 wasn't a disconnect between her and us. And I said that that
7 wasn't true, and that, you know, there wasn't a disconnect,
8 that this about other things not having a voice. And she said
9 that if we unionized that she wouldn't be able to help us on
10 the floor anymore, and I said that that wasn't true because we
11 were going to negotiate for her not to be allowed to work on
12 the floor. And she said that we didn't know what would be
13 negotiated, and that, you know, we'd be shooting ourselves in
14 the foot.

15 Q Did you ever go to a listening session?

16 A I did.

17 Q What date do you go?

18 A The first one I went to was September 2nd.

19 Q Where was that session held?

20 A It was at the Marriott by Genesee Street and the airport.
21 Oops, sorry, sorry. That's the second one. The first one was
22 at the Main Street store, in Williamsville in their conference
23 room. Sorry. There were a lot of them.

24 Q What time of day was the one you attended on the 2nd?

25 A Early afternoon.

- 1 Q How many partners were there?
- 2 A About 15.
- 3 Q Were they all from your store?
- 4 A No. They were from a bunch of different stores around
- 5 Buffalo.
- 6 Q Who from Starbucks corporate was at that meeting?
- 7 A There were three of them. It was Rossann Williams, Deanna
- 8 Pusatier, and Allyson Peck.
- 9 Q Had you ever met Rossann Williams before?
- 10 A No.
- 11 Q What about Deanna Pusatier?
- 12 A No.
- 13 Q What about Allyson Peck?
- 14 A No.
- 15 Q Had you ever attended a listening session before?
- 16 A No.
- 17 Q After that session, did you ever interact with Rossann
- 18 Williams again?
- 19 A I did.
- 20 Q On what occasion was that?
- 21 A The next time that I interacted with Rossann was on that
- 22 next Saturday. I think it was the 4th, which was a farmers
- 23 market Saturday, and Rossann came into the store along with
- 24 Allyson and Deanna.
- 25 Q What do you mean by a "farmers market Saturday"?

1 A So there's a farmers market at the corner of Elmwood and
2 Bidwell, which means that we get the peak rush of people who
3 are going to the farmers market and then coming to our store.

4 Q What happened in your interaction with Rossann on that
5 day?

6 A So first, she came into the store, and I was on hand-off,
7 which means, like, handing out the drinks, and our nitro
8 machine was a little messed up, so she was asking, like,
9 where's the nitro. She came on the floor, and like, was
10 talking to people. She bought, I think \$100 worth of gift
11 cards, and was passing those out to customers that she thought
12 were waiting too long for their cold brews and other drinks.
13 And then I took a lunch break, and Rossann came into the back
14 while I was on my lunch break, and started talking to me. She
15 thanked me for coming to the listening session that I'd gone
16 to, and said that she was in the store just following up on
17 things that had come up in the listening sessions. And I asked
18 what she was following up on, and she started saying, you know,
19 things at the facilities. She said the carpet in our back
20 room, and she ordered an extra dry cappuccino, which is
21 supposed to be mostly foam, and it had been made by (b) (6), (b) (7)(C) who
22 was a newer hire, so (b) (6), (b) (7)(C) came into the back at one point and
23 was doing --

24 MS. POLITO: I'm just going to object at this point. The
25 witness is giving a narrative, and it has gone astray of what

1 the question was.

2 JUDGE ROSAS: I'm going to -- I'm going to sustain it at
3 this point so we can go to the next question. The answer
4 remains, but I'm going to ask the witness to speak a little
5 slower, okay?

6 THE WITNESS: Sure.

7 Q BY MS. PENDER-STANLEY: Jaz, what happened after (b) (6), (b) (7)(C) came
8 in the back?

9 A Rossann started saying that the cappuccino hadn't been
10 made to standard as an extra dry cappuccino, and that another
11 thing that had come up in the listening sessions was the need
12 for greater training, so that that was something that she was
13 following up on as well. And that (b) (6), (b) (7)(C) making the drink a
14 certain way had shown that that was something that (b) (6), (b) (7)(C) wanted
15 to, you know, do.

16 Q How long did your conversation with Rossann last that day?

17 A So it took up my whole lunch break.

18 Q How long is your lunch break?

19 A 30 minutes.

20 Q Prior to the Union campaign, what's the highest level
21 Starbucks official you recall seeing in your store?

22 A The district manager.

23 Q Who is your district manager?

24 A David LeFrois.

25 Q How often had you seen David in your store prior to the



1 campaign?

2 A Two times.

3 Q Did you attend a further listening session?

4 A Yes.

5 Q What's the date that you attended the next one?

6 A The next one was September 19th, I believe. No. Am I
7 missing one?

8 Q Was there one before the 19th?

9 A I believe that their next one was the one at the Courtyard
10 Marriott, and I'm blanking on the date. I had to be early
11 September because the 19th was the one at the Wyndham Garden,
12 sorry.

13 Q At the one at the Courtyard Marriott, what time was that
14 meeting?

15 A That was in midafter -- midafternoon, early afternoon.

16 Q Were you paid for that meeting?

17 A Yes.

18 Q How long did the meeting last?

19 A An hour.

20 Q And was this meeting also for all Buffalo employees?

21 A No, this was just for Elmwood meeting -- or for the
22 Elmwood store, and then there was the one immediately after
23 that for Genesee. At this point, it came out there were
24 Genesee partners there.

25 Q When did your store file its petition?



- 1 A August 30th.
- 2 Q Was this meeting before or after that?
- 3 A After.
- 4 Q Was your store closed for the meeting?
- 5 A No.
- 6 Q How many employees were at the meeting you went to?
- 7 A About five.
- 8 Q And who from Starbucks corporate was there?
- 9 A Rossann, Allyson, and Deanna.
- 10 Q Jaz, did you record that meeting?
- 11 A I did.
- 12 Q How did you do that?
- 13 A On my phone.
- 14 Q Did you record the entire meeting?
- 15 A Yes.
- 16 Q What did you do with the recording after the meeting
- 17 ended?
- 18 A I kept it in on my phone, and I sent it to our lawyers and
- 19 to the NLRB.
- 20 Q Did you edit the recording in any way?
- 21 A No.
- 22 Q If I were to play it for you, could you identify it?
- 23 A Yes.
- 24 Q Have you ever seen a transcript for that recording?
- 25 A Yes.

1 Q And what did you do with that transcript?

2 A I compared it to the recording and identified some of the
3 voices that had been misidentified.

4 MS. PENDER-STANLEY: I would offer General Counsel Exhibit
5 35(a) and 35(b), which are the recording and respective
6 transcript for the September 9th, 2021 meeting.

7 MS. POLITO: Same standing objection, Judge.

8 JUDGE ROSAS: Based on a previous ruling, the Respondent's
9 continuing objection is overruled.

10 General Counsel's Exhibit 35(a) and 35(b) are received.

11 **(General Counsel Exhibit Numbers 35(a) and 35(b) Received into**
12 **Evidence)**

13 Q BY MS. PENDER-STANLEY: Jaz, did you take any photos at
14 this meeting?

15 A I did.

16 Q Can you look in front of you in the packet, and put the --
17 you can put the first one aside. So looking at the Counsel --
18 General Counsel Exhibit 36 --

19 A Yes.

20 Q Do you recognize this?

21 A I do.

22 Q What is this?

23 A This is a photo I that took during that listening session.

24 Q How did you take the photo?

25 A On my phone.



1 Q Is this an accurate copy of the photo you took?

2 A It is. It was in color, obviously.

3 Q Did you alter the photo in any way?

4 A No.

5 Q Can you identify the people in the photo?

6 A Yes. It was, so from left, it's Kevin Parham, who was
7 Elmwood partner, Deanna Pusatier, Allyson Peck, Angela Dedsick
8 (phonetic throughout), also an Elmwood partner, and Rossann
9 Williams.

10 Q Why did you take this photo?

11 A Partly because corporate had put their contact information
12 on the white board so they were encouraging us to take photos
13 of it, but also, to document what -- what was going on.

14 MS. PENDER-STANLEY: I offer General Counsel Exhibit 36.

15 MS. POLITO: Voir Dire, Judge?

16 JUDGE ROSAS: Go ahead.

17 **VOIR DIRE EXAMINATION**

18 Q BY MS. POLITO: Ms. Brisack, looking at Exhibit Number 36,
19 the white board is reflected in that picture.

20 A Yes.

21 Q And there's no writing on that white -- white board?

22 A The writing didn't show up, so I had to take another photo
23 of what was more zoomed in on the writing as well.

24 Q Where is that photo?

25 A I only sent this one because this one was the one that

1 asked for.

2 MS. POLITO: Judge, I'm going to object. If the witness
3 is going to testify about the writing, then we should have the
4 photo with the writing introduced into evidence.

5 JUDGE ROSAS: What's this photo --

6 MS. POLITO: That was her -- her testimony.

7 JUDGE ROSAS: -- being offered for?

8 MS. PENDER-STANLEY: To show who was present at the
9 meeting, Your Honor.

10 MS. POLITO: She could also testify as to who was
11 president -- present at the meeting, so it's really cumulative,
12 and not relevant.

13 JUDGE ROSAS: Overruled. I'll -- I'll receive it for
14 the -- for the matter that it is being offered for.

15 General Counsel's 36 is received over objection.

16 **(General Counsel Exhibit Number 36 Received into Evidence)**

17 **RESUMED DIRECT EXAMINATION**

18 Q BY MS. PENDER-STANLEY: You can just put that aside. Flip
19 it over, so it's face down. What's the next meeting you
20 attending in September?

21 A The next one was September 19th.

22 Q And where was that meeting held?

23 A At the Wyndham Garden hotel, by the hospital downtown.

24 Q Was your store closed during that meeting?

25 A Sorry?

- 1 Q Was your store closing during that meeting?
- 2 A No.
- 3 Q How many partners from your store were at the meeting?
- 4 A I think about six.
- 5 Q Did you work that day?
- 6 A No, but I had been scheduled that morning.
- 7 Q So why didn't you work?
- 8 A Because we were told not to come to our shifts. The
- 9 partners from the Niagara Fall Boulevard store were covering
- 10 all of our shifts.
- 11 Q Who told you that?
- 12 A Patty Shanley as well as -- yeah, Patty Shanley.
- 13 Q And were you paid for attending this meeting on the 19th?
- 14 A Yes.
- 15 Q How much time were you paid for?
- 16 A The entire shift I'd been scheduled, which, I believe, was
- 17 eight hours.
- 18 Q Was this meeting open to all Buffalo employees?
- 19 A No, just Elmwood partners.
- 20 Q What time day did you go to this meeting?
- 21 A I went to the noon one.
- 22 Q And who from corporate was present?
- 23 A That was also Rossann, Allyson, and Deanna.
- 24 Q Did you record this meeting?
- 25 A Yes.

1 Q How did you record it?

2 A On my phone.

3 Q Did you record the entire meeting?

4 A Yes.

5 Q What did you do with the recording after the meeting?

6 A I kept it on my phone and then sent it to our lawyers and
7 to the NLRB.

8 Q Did you edit the recording in any way?

9 A No.

10 Q If I were to play the recording for you, would you be able
11 to identify it?

12 A Yes.

13 Q And have you ever seen a transcript for this recording?

14 A Yes.

15 Q What did you do with that transcript?

16 A I went through it and identified the names that weren't
17 identified or incorrect at that point.

18 MS. PENDER-STANLEY: I offer General Counsel 37(a), the
19 audio, and (b), the revised transcript.

20 MS. POLITO: Same objection, Judge.

21 JUDGE ROSAS: The objection is overruled for the reason
22 previously stated relating to Respondent's continuing
23 objection.

24 General Counsel's Exhibit 37(a) and 37(b) are received.

25 **(General Counsel Exhibit Numbers 37(a) and 37(b) Received into**



1 **Evidence)**

2 Q BY MS. PENDER-STANLEY: Jaz, after the farmers market that
3 you spoke about, did you see corporate officials in your store
4 again in September?

5 A Yes.

6 Q Who did you see?

7 A Rossann, Allyson, and Deanna, as well as other corporate
8 and managers that came into the store later.

9 Q How often did you see those people in your store in
10 September of 2021?

11 A Very frequently.

12 Q What did you observe them do while in your store?

13 A They would come onto the floor, start having conversations
14 with partners, change trashes, you know, wipe down bathrooms,
15 you know, make cold brew backups, have conversations in the
16 back room or, like, on the side, and then, the support managers
17 did additional things, but I think --

18 Q What time of day would you typically see these corporate
19 people in your store?

20 A Mid-morning to afternoon.

21 Q Have you been to any other Starbucks stores, other than
22 the one you work at in Buffalo?

23 A Yes.

24 Q About how many of the stores have you been to?

25 A I've been to all of the stores, and I've picked up shifts

1 at about half of the stores.

2 Q Have you ever -- did you ever see corporate officials at
3 other stores in the fall of 2021?

4 A I did.

5 Q What stores do you recall seeing them at?

6 A Most of them. I specifically recall seeing them at the
7 Delaware and Kenmore store, Delaware and Chippewa store, the
8 East Robinson store, the Camp Road store, the Depew store, the
9 Transit Commons, the Walden/Anderson store, the Cheektowaga
10 store, the Genesee Street store. I'm sure others -- the
11 Sheridan and Bailey store.

12 Q Can you look at the document in front of you marked
13 General Counsel 38?

14 A Yes.

15 Q Do you recognize this?

16 A Yes.

17 Q What is this?

18 A This is a photo I took right before the meeting on
19 September 19th. In my store, this is Deanna Pusatier talking
20 to one of the Niagara Falls Boulevard partners who was covering
21 one of our shifts. I can't identify the partner because I
22 didn't know them.

23 Q And how did you take this photo?

24 A On my phone.

25 Q Did you edit the photo in any way?

- 1 A No. It was also in color.
- 2 Q And what did you do with it after you took it?
- 3 A It's the one I forwarded and sent it to the NLRB.
- 4 MS. PENDER-STANLEY: I offer General Counsel 38.
- 5 JUDGE ROSAS: Do you have more of these?
- 6 MS. PENDER-STANLEY: Just two more.
- 7 JUDGE ROSAS: Go through it all.
- 8 MS. PENDER-STANLEY: I'm sorry?
- 9 JUDGE ROSAS: Go through them all.
- 10 MS. PENDER-STANLEY: Okay.
- 11 Q BY MS. PENDER-STANLEY: Let's look at the next, which is
- 12 General Counsel 39.
- 13 A Um-hum.
- 14 Q And do you recognize this?
- 15 A Yes.
- 16 Q What is this?
- 17 A This is a photo taken the same day, September 19th at the
- 18 same time of Rossann Williams sweeping the floor at our store.
- 19 Q And did you take this photo?
- 20 A I did.
- 21 Q What store is that?
- 22 A Elmwood.
- 23 Q How did you take this photo?
- 24 A Also on my phone.
- 25 Q Did you al -- alter it in any way?

1 A No.

2 Q And what did you do with it after you took it?

3 A It stayed on my phone, and I sent it to the NLRB.

4 Q And let's look at General Counsel 40, which is the next
5 photo.

6 A Sorry?

7 Q Just look at the next photo, which is GC 40. Do you
8 recognize this?

9 A Yes.

10 Q What is this?

11 A This is a photo of my manager who was with Rossann at the
12 Depew store.

13 Q And did you take this photo?

14 A I did.

15 Q Why did you take this photo?

16 A Because I was trying to document the corporate people
17 being at our stores. I think this was September 21st.

18 Q How did you take this photo?

19 A On my phone.

20 Q What did you do with it after you took it?

21 A It stayed on my phone, and I sent it to the NLRB.

22 Q Did you edit this photo in any way?

23 A No.

24 MS. CACACCIO: I'd offer General Counsel 38, 39, and 40.

25 MS. POLITO: Voir dire, Judge?

1 JUDGE ROSAS: Go ahead.

2 **VOIR DIRE EXAMINATION**

3 Q BY MS. POLITO: With re -- with respect to Exhibit Number
4 38, there's no date associated with this picture; is that
5 correct?

6 A It was September 19th.

7 Q And you know it was September 19th because that was the
8 date of the listening session?

9 A Correct.

10 Q And you took it on that date?

11 A Correct.

12 Q And did you ask either of the individuals in the picture
13 if you have permission to take their picture?

14 A No, I just took the picture.

15 Q Going to Exhibit Number 39, was that also taken on the
16 same date, September 19th?

17 A Yes.

18 Q Same store?

19 A Yes.

20 Q And that's a picture of Rossann Williams; is that correct?

21 A Yes.

22 Q Going to Exhibit Number 40, there's two individuals in
23 that picture; do you see that?

24 A Yes.

25 Q Did you obtain consent from either of those individuals to



1 take their picture?

2 A No.

3 Q Who are the two individuals in the picture?

4 A One of them was -- the one in the front next to the
5 parking sign is one of the managers that was with Rossann.
6 There was somebody that I'm really not sure who it -- it was.

7 Q You don't know what his name is?

8 A No.

9 Q And the other person is a customer of Starbucks?

10 A I would assume.

11 Q Well, you took the picture. Was it a manager?

12 A Sorry?

13 Q You took the picture, correct?

14 A Yes.

15 Q Was the -- is the other individual depicted in Exhibit
16 Number 40 a customer or a store manager?

17 A I believe the other person was a customer, but I don't
18 know who they were.

19 Q Did you get the customer's permission to take his picture
20 while he was sitting having a coffee at Starbucks?

21 A No.

22 MS. POLITO: Judge, I object to Exhibit Number 40. It's
23 completely inappropriate to take a picture of a customer at a
24 store and offer it into evidence. She has testified that she
25 believes that they were store managers. She doesn't even know

1 this individual's name. But she's testified that there were
2 store managers at the store. So the picture itself is
3 cumulative and is inappropriate because it contains a picture
4 of a customer just trying to enjoy a cup of coffee.

5 MS. PENDER-STANLEY: May I be heard, Your Honor?

6 JUDGE ROSAS: Yes.

7 MS. PENDER-STANLEY: I would've cropped the customer out
8 of the photo, but then, it wouldn't have been a complete copy
9 of the photo.

10 JUDGE ROSAS: I'm sorry? The -- you would've cropped
11 the --

12 MS. PENDER-STANLEY: I would've --

13 JUDGE ROSAS: customer out?

14 MS. PENDER-STANLEY: -- cropped the customer out, but then
15 it wouldn't have been a complete copy of the photo.

16 JUDGE ROSAS: Well, what you can do is --

17 MS. PENDER-STANLEY: Yeah.

18 JUDGE ROSAS: -- mark over the -- the likeness of the
19 individual of the customer.

20 MS. PENDER-STANLEY: Yep, I'll do that.

21 JUDGE ROSAS: Unless the Respondent has an objection.
22 It's being received over objection.

23 What's your pleasure? You want it left in, you want it
24 taken out, the customer's picture?

25 MS. POLITO: I think the customer's picture should be

1 removed from this hearing, Judge.

2 JUDGE ROSAS: Okay. So you'll just -- you'll mark it
3 over.

4 MS. PENDER-STANLEY: I will.

5 JUDGE ROSAS: Okay?

6 MS. PENDER-STANLEY: Yep.

7 JUDGE ROSAS: All right. So I'm overruling the
8 objection -- Counsel's objections. As -- as you know,
9 regarding the permissibility of -- of photographing in New York
10 State is whatever it is. But under Board law, everything comes
11 in consistent with the National Labor Relations Act.

12 **(General Counsel Exhibit Numbers 38, 39 and 40 Received into**
13 **Evidence)**

14 **RESUMED DIRECT EXAMINATION**

15 Q BY MS. PENDER-STANLEY: Jaz, you can just flip those over
16 and put them to the side.

17 A Okay.

18 Q Was your store ever assigned a support manager?

19 A Yes.

20 Q When was that?

21 A Our first one was, I think starting, this was September
22 20th.

23 Q And who was the first support manager?

24 A Dustin Taylor.

25 JUDGE ROSAS: Um-hum?



1 Q BY MS. PENDER-STANLEY: How long --

2 MR. BALSAM: Judge, I'm going to object that this
3 cumulative. We've already had testimony from a witness at the
4 Elmwood store that there were support store managers there. We
5 don't need to go through this evidence again.

6 JUDGE ROSAS: We had testimony from one witness.

7 MS. POLITO: Yes.

8 JUDGE ROSAS: Right?

9 MS. POLITO: We have already heard --

10 JUDGE ROSAS: Overruled.

11 MS. POLITO: -- testimony from at least --

12 JUDGE ROSAS: That's okay.

13 MS. POLITO: -- one witness.

14 JUDGE ROSAS: At this point, it's corroborative.

15 Q BY MS. PENDER-STANLEY: How long was Dustin Taylor at your
16 store?

17 A From September 20th, until right around the time of our
18 vote, which was December 9th.

19 Q Were any other support managers assigned to your store
20 during the fall of 2020?

21 A Yes.

22 Q 2021? Sorry. Who were they?

23 A So the next one was Matt Lavoie, who came in maybe a week
24 or two after Dustin and stayed until right after then in
25 December. And then, there were also Kelly Roupe.

1 JUDGE ROSAS: Who?

2 A And --

3 JUDGE ROSAS: Who?

4 THE WITNESS: Kelly Roupe, R-O-U-P-E.

5 A -- Sarah Muntz; Katherine Posey, who came in like mid-
6 December. And then there were other people who were weren't
7 specifically assigned to this store, but were still acting as a
8 support managers from time to time.

9 Q BY MS. PENDER-STANLEY: And who are those other people who
10 weren't assigned to your store but were acting as support
11 managers from time to time?

12 A There were a lot of them. The ones that I can name were
13 Marsh King, Ana Gutierrez, Joanna Hernandez (phonetic
14 throughout). And there were also new district manager and a
15 support district manager, which were MK and Michaela Murphy.

16 Q What did you observe support managers do in your store in
17 the fall of 2021?

18 A It depended largely on the support managers. Sometimes
19 they would be on bar, often they would be on -- warming or
20 hand-off. Sometimes they would set up a computer in the
21 backroom and work, like, in the backroom, or you know, in the
22 lobby. But they were always present.

23 Q How -- how often did you see them in your store in the
24 fall of 2021?

25 A Every shift that I worked, except for one, which was

1 notable because of how different it was having a support
2 manager present.

3 Q During the fall of 2021, what was your typical work
4 schedule?

5 A I was an opener. So I was usually working Friday through
6 Monday opening shifts, so 5 or 5:50 until mid mor -- mid to
7 late morning.

8 Q Prior to the campaign, do you know how hiring was handled
9 at your store?

10 A By the store manager Patty.

11 Q How do you know that?

12 A I was hired by Patty. But I witnessed her interview and
13 offer positions to other partners at our store.

14 Q After the campaign started, did hiring at -- at your store
15 change in any way?

16 A It did.

17 Q How so?

18 A Patty was no longer hiring new partners. And we were told
19 that there were other managers and new recruiters brought in to
20 specifically do the hiring.

21 Q Who told you that?

22 A Various managers in listening sessions, including, I
23 believe, Allyson Peck, and also, I think, Mark during the
24 October 1st meeting.

25 Q Was anyone hired for all -- anyone in the fall of 2021?



- 1 A Yes.
- 2 Q How many people?
- 3 A I think it was six people. It was either six or seven.
- 4 And then one fewer than that started at our store.
- 5 Q When did those new partners start at your store?
- 6 A October, right after the remodel and reopening.
- 7 Q When you were hired, how were you trained?
- 8 A By Cathy Bouchard (phonetic throughout), a barista trainer
- 9 in this -- in this store.
- 10 Q After the campaign, were the new people who were hired
- 11 trained at your store, to your knowledge?
- 12 A They were not.
- 13 Q Do you know where they were trained?
- 14 A They were trained at Walden Anderson.
- 15 Q How do you know that?
- 16 A We were also told that in the same session. Explained in
- 17 front of the partners as well.
- 18 Q Did the new partners starting at your store have any
- 19 impact on your -- your work hours?
- 20 A They did.
- 21 Q How? What was that impact?
- 22 A I got a text in November from Patty Shanley, where she
- 23 asked if I was okay with having shorter shifts to give my hours
- 24 to the new partners.
- 25 Q Had hourly reductions been mentioned in the listening

1 sessions, to your recollection?

2 A In --

3 MS. POLITO: Objection. Leading.

4 JUDGE ROSAS: Rephrase.

5 Q BY MS. PENDER-STANLEY: Have you ever talked to any
6 manager about your hours before that?

7 A Yes.

8 Q What happened?

9 A So in the October 1st session, we asked specifically, I
10 believe Kellen asked that -- at least I believe of who asked
11 whether our hours would be cut if new partners came in. And
12 management said that nobody would -- they would not be cut.

13 Q Were there any physical changes to your store in the fall
14 of 2021?

15 A Yes.

16 Q When -- when did that happen?

17 A The first changes were in September.

18 Q And what was that?

19 A The first one was that the carpet in the backroom got
20 ripped out and, like, that we didn't have a backroom of our
21 store for about a week.

22 Q What's the -- what -- what other changes did you notice?

23 A We ended up getting a remodel in October, where our store
24 was shut down for a week. And we got a new board, which had
25 the customers' name on it. We got the bar moved out a little

1 bit and significantly lowered.

2 Q I'm going to direct your attention to October of 2021.

3 A Yes.

4 Q Did you attend meetings that month?

5 A I did.

6 Q What's the first one you attended?

7 A October 1st.

8 Q And where was that meeting held?

9 A In the Elmwood store.

10 Q And what time was that?

11 A 5 or 6 p.m.

12 Q Was the store closed for the meeting?

13 A It was.

14 Q Did it reopen afterward?

15 A No.

16 Q At that time, what was the minimum closing time for your
17 store?

18 A I think it closed for the public at 9:30.

19 Q How many partners were present for the October 1st
20 meeting?

21 A About 20. It was supposed to be all of the partners at
22 once.

23 Q How did you learn about that meeting?

24 A From Patty Shanley.

25 Q Were you paid to attend?



1 A Yes.

2 Q Who from Starbucks Corporate was there?

3 A Mark Szto, the district manager from the other district;
4 Chris Stewart, who was a licensed stores HR person from
5 Georgia; and Allyson Peck.

6 Q What partners do you recall being at that October 1st
7 meeting?

8 A There were a lot of them. Michelle was right across from
9 me.

10 Q What's Michelle's last name?

11 A I'm sorry. Michelle Eisen.

12 Q Okay.

13 A Kellen Montanye was there because I remember him asking
14 questions. Erin O'Hare was there. She had been a partner at
15 the Galleria, which had closed, and then was working at our
16 store because she couldn't get hours at the Delaware-Chippewa
17 store.

18 Q Other than that October 1st meeting, did you attend any
19 other meetings in October?

20 A I did.

21 Q What was the next one?

22 A I believe, obviously, there -- there was one when the
23 store reopened after the remodel that was very brief. There
24 was like this pizza party, basically. And the next more formal
25 meeting was October 20th.

- 1 Q Where was that October 20th meeting held?
- 2 A That was at I think the Hampton downtown acro -- it was
- 3 the one that was across from the Delaware and Chippawa store.
- 4 Q How did you learn about that meeting?
- 5 A Also from the posting in the back and from that additional
- 6 room.
- 7 Q What time was the meeting you attended?
- 8 A 4 p.m., I think.
- 9 Q Was your store open that day?
- 10 A It was.
- 11 Q How many employees were at the meeting you went to?
- 12 A I think about five or six.
- 13 Q And who from corporate was there?
- 14 A Natalie Coife and Ana Gutierrez and Allyson Peck.
- 15 Q Did you record that October 20th meeting?
- 16 A I did.
- 17 Q How did you record that?
- 18 A On my phone.
- 19 Q Did you record the entire meeting?
- 20 A I did.
- 21 Q What did you do with the recording after the meeting?
- 22 A I kept it on my phone. And I sent it to the NLRB.
- 23 Q Did you edit the recording in any way?
- 24 A I did not.
- 25 Q If I were to play it for you, could you identify it?

1 A Yes.

2 MS. PENDER-STANLEY: I'm going to play General Counsel
3 Exhibit 114(a), the October 20th meeting. It's accompanied by
4 the transcript, which is 114(b).

5 MS. POLITO: Alicia, just for the record, with respect to
6 the other two recordings, there was no before or after, right?

7 MS. PENDER-STANLEY: Let me check. The 9/9, there is
8 seven minutes preceding the transcript, nothing at the end.
9 The 9/19, I think there's four minutes, four-and-a-half minutes
10 preceding, and the minute at the end. Do you want to go back
11 and play those?

12 MS. POLITO: Yeah. Consistent with what our practice has
13 been is that, if it's not transcribed, we're going to have the
14 witness at least listen to it, try to explain what was going
15 on, the voices for that period of time before and after.

16 MS. PENDER-STANLEY: Okay. We're going to rewind a little
17 bit.

18 JUDGE ROSAS: This one's how long?

19 MS. PENDER-STANLEY: The -- so we're going back to play
20 the first seven minutes of the September 9th, which is GC-35.
21 And then, we're going to play the first four minutes and 30
22 seconds, and then, the last minute of GC-37, the September
23 19th.

24 JUDGE ROSAS: Okay.

25 (Audio played at 2:10 p.m., ending at 2:11 p.m.)

1 Q BY MS. PENDER-STANLEY: Jaz, do you know who's speaking
2 now?

3 A I'm not sure, because they had an extra person who was
4 having us do the COVID coach. So that wasn't one of the three.

5 Q Did you know that person?

6 A No.

7 MS. PENDER-STANLEY: We're at 1:19.

8 (Audio played at 2:11 p.m., ending at 2:12 p.m.)

9 Q BY MS. PENDER-STANLEY: Do you know who's speaking now?

10 A I can't really distinguish. I'm sorry.

11 MS. PENDER-STANLEY: 2:17.

12 (Audio played at 2:12 p.m., ending at 2:12 p.m.)

13 A That's Stephen Bishop.

14 Q BY MS. PENDER-STANLEY: Okay.

15 MS. PENDER-STANLEY: 2:32.

16 (Audio played at 2:13 p.m., ending at 2:13 p.m.)

17 A I think it's -- I think it's Allyson Peck saying no
18 worries.

19 Q BY MS. PENDER-STANLEY: Okay. Who is Stephen Bishop?

20 A A shift supervisor at the Elmwood store.

21 MS. PENDER-STANLEY: We're at 2:50.

22 (Audio played at 2:13 p.m., ending at 2:14 p.m.)

23 Q BY MS. PENDER-STANLEY: Do you know who's speaking now?

24 A The deeper voice is Stephen, I know. I'm just not so
25 sure, but from my recollection is that Allyson Peck and whoever

1 was doing the COVID coach were the only people there, because
2 what was going on with Rossann and Deanna had gotten their
3 times mixed up and were out at a store instead of in here for
4 the meeting.

5 MS. PENDER-STANLEY: 3:37.

6 (Audio played at 2:14 p.m., ending at 2:14 p.m.)

7 Q BY MS. PENDER-STANLEY: So that would be?

8 A Sorry. So that seems to be Deanna, since she says that
9 Allyson and Rossann will be here. Sorry about that.

10 MS. PENDER-STANLEY: 3:47.

11 (Audio played at 2:15 p.m., ending at 2:15 p.m.)

12 Q BY MS. PENDER-STANLEY: Who was that?

13 A Me.

14 MS. PENDER-STANLEY: 4:38.

15 (Audio played at 2:15 p.m., ending at 2:16 p.m.)

16 Q BY MS. PENDER-STANLEY: Who was that?

17 A Me.

18 MS. PENDER-STANLEY: 5:26.

19 (Audio played at 2:16 p.m., ending at 2:17 p.m.)

20 Q BY MS. PENDER-STANLEY: Who's that?

21 A Rossann.

22 MS. PENDER-STANLEY: 6:34.

23 (Audio played at 2:18 p.m., ending at 2:18 p.m.)

24 MS. PENDER-STANLEY: Okay. We're at 7:01. This is where
25 the transcript picks up with, "Hi, partners".

1 MS. POLITO: And just for the record that was the 9/9
2 listening session, right?

3 MS. PENDER-STANLEY: That's right, yes. Yep. And next,
4 we're going to go to the September 19th listening session.
5 Like I said, there's four minutes and 30 minute -- 30 seconds
6 at the start. I will try my best to time it at the end for the
7 appropriate minute or minute and a half. But I don't have a
8 ton of precision on this, so bear with me. I'm now playing
9 General Counsel 37(a).

10 (Audio played at 2:18 p.m., ending at 2:22 p.m.)

11 MS. CACACCIO: Ask her who that was.

12 Q BY MS. PENDER-STANLEY: Do you know that last voice was?

13 A Which one?

14 Q The last, kind of, the male voice, I think.

15 A The last one I picked up on was Kellen Montanye.

16 MS. PENDER-STANLEY: 3:15.

17 A I'm not sure if that was the specific or not.

18 Q BY MS. PENDER-STANLEY: Okay.

19 MS. PENDER-STANLEY: 3:15.

20 (Audio played at 2:22 p.m., ending at 2:22 p.m.)

21 Q BY MS. PENDER-STANLEY: That was?

22 A That was Kellen.

23 MS. PENDER-STANLEY: 3:18.

24 (Audio played at 2:22 p.m., ending at 2:23 p.m.)

25 Q BY MS. PENDER-STANLEY: Who's that?

1 A That was Rossann.

2 MS. PENDER-STANLEY: 3:56.

3 (Audio played at 2:23 p.m., ending at 2:23 p.m.)

4 Q BY MS. PENDER-STANLEY: Who was that?

5 A I'm not 100 percent sure.

6 Q Okay.

7 MS. PENDER-STANLEY: 4:23.

8 (Audio played at 2:24 p.m. ending at 2:24 p.m.)

9 MS. PENDER-STANLEY: All right. And we're at 4:29, and
10 that's when the transcript picks up. And then we'll go to the
11 end. The last -- I believe from 1:26:07 -- I believe is where
12 the transcript ends. Let's see if I can find that exact spot.

13 Picking up from 1:25:58.

14 (Audio played at 2:24 p.m., ending at 2:27 p.m.)

15 Q BY MS. PENDER-STANLEY: Do you know who's talking now?

16 A So that part was Shariah talking about the wage increases,
17 and I think --

18 Q Just -- just who's talking. Just who -- just the
19 speakers' names.

20 A Okay. The one that I'm picking up on are Shariah, and I
21 think I said something. And I think before there had been
22 Allyson in there.

23 Q Okay.

24 MS. PENDER-STANLEY: 1:28:24.

25 (Audio played at 2:27 p.m., ending at 2:27 p.m.)

1 MS. PENDER-STANLEY: And that's the end. Okay. Going
2 back to General Counsel Exhibit 114, which is the October 20th,
3 2021, session that the transcript has not been re -- revised
4 for -- revised yet for, this one -- this transcript goes end to
5 end. There's no beginning and end parts.

6 Playing 114(a).

7 (Audio played at 2:28 p.m., ending at 2:29 p.m.)

8 Q BY MS. PENDER-STANLEY: Who's saying, "Here's a key"?

9 A I think that was the hotel desk person.

10 Q Okay.

11 MS. PENDER-STANLEY: 16 seconds.

12 (Audio played at 2:29 p.m.)

13 MS. POLITO: Can you pause it?

14 (Audio ends at 2:30 p.m.)

15 MS. PENDER-STANLEY: Sure.

16 MS. POLITO: Is it possible that the witness, while
17 looking at the transcript, identify if it's an incorrect
18 person? So my understanding is she hasn't had the chance to
19 look at the transcript.

20 MS. PENDER-STANLEY: Right.

21 MS. POLITO: She has a transcript in front of her now.

22 MS. PENDER-STANLEY: Right.

23 MS. POLITO: Instead of stopping every second, if she --
24 if she's looking at the transcript and it's -- if she notices
25 that the person speaking is not Jeremy Pasquale, she --

1 MS. PENDER-STANLEY: You want her to just cross it out and
2 write the correct name? Or --

3 MS. POLITO: Or if she corrects it on the record.

4 JUDGE ROSAS: That's -- that's what I suggested earlier.

5 MS. PENDER-STANLEY: Yeah, that's fine. I -- yeah, I'll
6 have to -- I'll still have to --

7 JUDGE ROSAS: It'll only be stopped whenever --

8 MS. PENDER-STANLEY: -- stop it and see if she knows if
9 the person's correct.

10 JUDGE ROSAS: -- y'all have a question or she needs to
11 correct something.

12 MS. PENDER-STANLEY: Okay.

13 MS. POLITO: So -- so then I'm going to assume, listening
14 to this, that the gentleman we were just listening to was
15 Jeremy Pasquale, unless the witness says that that is an error
16 in the transcript.

17 THE WITNESS: The -- Pas -- Pasquale's misspelled, but
18 other than that, that's correct.

19 UNIDENTIFIED SPEAKER: I'm sorry. Which one?

20 THE WITNESS: P-A-S-C-U-A-L.

21 Q BY MS. PENDER-STANLEY: That's fine. Just -- so I guess,
22 if you are listening and you hear some -- something -- someone
23 that's wrong, just flag me.

24 A Okay.

25 Q And I'll -- I'll stop it so you can tell us who the right

1 person is.

2 MS. PENDER-STANLEY: Okay. Resuming at 1:21.

3 (Audio played at 2:31 p.m., ending at 2:33 p.m.)

4 A I think that's me.

5 Q BY MS. PENDER-STANLEY: Okay.

6 MS. PENDER-STANLEY: 2:56.

7 (Audio played at 2:33 p.m., ending at 2:33 p.m.)

8 Q BY MS. PENDER-STANLEY: Who's that?

9 A I'm not sure.

10 Q Okay.

11 (Audio played at 2:33 p.m.)

12 A I'm not sure that's Allyson.

13 (Audio ends at 2:34 p.m.)

14 Q You don't think that's Allyson?

15 A I'm not sure. I think some of this might have been Ana,
16 but it's hard for me to tell without, like, having the
17 introduction of everything yet.

18 Q Which Ana are you talking about?

19 A Gutierrez.

20 Q Okay.

21 A But they also --

22 JUDGE ROSAS: What's the time?

23 MS. PENDER-STANLEY: 4:07.

24 A I think they potentially had some other people doing COVID
25 coach stuff, too, who were saying, like, the good morning part.

1 So I don't -- they usually have, like, one extra person to do
2 that.

3 Q BY MS. PENDER-STANLEY: Okay.

4 MS. PENDER-STANLEY: Resuming at 4:07.

5 (Audio played at 2:35 p.m.)

6 A I think "I still got it" was Ana.

7 (Audio ends at 2:35 p.m.)

8 Q You -- you have to let me know to stop --

9 A Oh, sorry. Sorry. Sorry.

10 Q -- before you speak.

11 JUDGE ROSAS: You can say "stop".

12 THE WITNESS: Yeah.

13 Q BY MS. PENDER-STANLEY: What were you saying?

14 A I think the person who says "I still got it" was Ana.

15 Q Okay.

16 MS. PENDER-STANLEY: Resuming at 4:31.

17 (Audio played at 2:35 p.m., ending at 2:37 p.m.)

18 Q BY MS. PENDER-STANLEY: Yes.

19 A I'm not 100 percent sure which person that was, but I
20 think it was either Ana or Allyson and not Nathalie yet.

21 Q Saying what?

22 A "Would either of you like some Tranquility or Veranda?"

23 Q BY MS. PENDER-STANLEY: Okay.

24 MS. PENDER-STANLEY: Resuming at 5:49.

25 (Audio played at 2:37 p.m., ending at 2:37 p.m.)

1 Q BY MS. PENDER-STANLEY: Yes.

2 A Where it identifies me, I don't think that was me, but I'm
3 not sure. It sounded more like Kat, but I don't want to 100 --
4 say it's Kat without being sure.

5 Q Okay.

6 MS. PENDER-STANLEY: Resuming at 6:17.

7 (Audio played at 2:38 p.m., ending at 2:38 p.m.)

8 A Not me. I'm not 100 percent sure which one.

9 Q BY MS. PENDER-STANLEY: Okay.

10 MS. PENDER-STANLEY: 6:37.

11 (Audio played at 2:38 p.m., ending at 2:38 p.m.)

12 A I said something about the cat, but the "oh, my gosh" was
13 somebody else.

14 Q BY MS. PENDER-STANLEY: Okay.

15 MS. PENDER-STANLEY: 7:03.

16 (Audio played at 2:39 p.m., ending at 2:39 p.m.)

17 A Not Natalie. That sounds like Beaux, but again, I'm not
18 100 percent sure.

19 Q BY MS. PENDER-STANLEY: Okay.

20 MS. PENDER-STANLEY: 7:27.

21 (Audio played at 2:39 p.m., ending at 2:41 p.m.)

22 Q BY MS. PENDER-STANLEY: Yes.

23 A Jayden's name is misspelled. There's a Y before the D.

24 Q J -- J-A-Y-D-E-N?

25 A Yes. Also, I'm pretty sure that the person who's talking

1 about coming in tomorrow earlier in the recording was in fact
2 Ana, after hearing her introduction.

3 Q Okay.

4 MS. POLITO: Judge, can we talk about this audio recording
5 for a minute, maybe outside of the presence of the witness?

6 JUDGE ROSAS: Sure.

7 You can take a restroom break, and we'll call you back in.
8 Don't talk to anybody about your testimony.

9 MS. POLITO: We've had a lot of discussions about audio
10 recordings, and we landed with getting five days' notice of the
11 audio recording and transcript, to avoid playing them in court,
12 which is not what we wanted to do, but that's what we landed
13 on, and that's where we started. And then now, to get this at
14 the last minute and then to listen to it, I feel like we need
15 to really be sort of consistent with what we're doing.

16 We can read the transcript. I don't know that we all need
17 to listen to it. And if the witness can review it tonight and
18 change the names as appropriate, I don't know that we need to
19 listen to two-and-a-half hours of audio recordings. If we're
20 getting them at the last minute, I -- I feel like we should be
21 getting the recordings five days ahead of time and not have to
22 go through this exercise again.

23 JUDGE ROSAS: All right.

24 MS. POLITO: And then not knowing every day whether we're
25 going to go through the exercise or not because suddenly -- oh,

1 today, here's a recording, but tomorrow you have your five
2 days. It -- it seems a little prejudicial to us at this point,
3 quite frankly.

4 MS. PENDER-STANLEY: Your Honor, I will say, in the case
5 of this witness, like I said, we got these transcripts from the
6 reporting service yesterday morning. The only alternative was
7 to wait and have this witness testify the week of the 22nd, and
8 that -- we wouldn't have had people to fill this week. So I
9 can do -- I'm doing the best that I can with the resources that
10 I have.

11 The recordings that I had available and had transcripts
12 and had the witness mark up were provided five days in advance.
13 The -- the -- the recordings that I had to go and get special
14 permission to get them transcribed -- I got them transcribed as
15 soon as I was aware they existed and got permission to
16 transcribe them. I got those transcriptions yesterday. I --
17 that's what I have.

18 JUDGE ROSAS: All right. So -- so we want to proceed as
19 efficiently as possible. We've had a procedure. Obviously,
20 this falls outside the cracks because you just got it
21 yesterday, like you said. You got it to the Respondent
22 yesterday or today. They're listening to it for the first
23 time.

24 Aside from the videos -- from the audios, do you have
25 other matters that you can cover or that you need to cover with

1 this witness for the time being? Because the -- the other way
2 we can do this will be to shelve all of this unreviewed audio
3 by her to tomorrow.

4 MS. PENDER-STANLEY: Um-hum.

5 JUDGE ROSAS: It would give the Respondent an opportunity
6 to listen to this stuff, compare it to transcripts, if you so
7 wish, overnight. But -- but we will do this tomorrow at the
8 latest. You know, all that, at a minimum, needs to be done is
9 foundation for an audio and founda -- authenticity and
10 foundation for an audio. Provided it gets played, it gets
11 admitted, if everything's in place. We've established a
12 procedure, nevertheless.

13 So looking at the circumstances, this came in yesterday.
14 We have a choice of either slogging through this now, doing
15 what we're doing. Respondent's hearing it at the same time
16 General Counsel, I am. The witness is listening to it to
17 authenticate it on the spot, with corrections. So that's what
18 we have available. Any suggestions?

19 MS. PENDER-STANLEY: I will say I can't guarantee that
20 she'll be able to mark them both up tonight. I mean, she'd
21 be -- I'm sure she would do her very best, but I don't -- I --
22 I don't know what her time is.

23 JUDGE ROSAS: It -- it requires everybody to be able to --
24 well, no. It requires her to be able to look at it beforehand
25 in order to, I guess, save a lot of time in terms of the

1 stoppage. She would then be marking stuff up at that point.

2 MS. POLITO: And Your Honor --

3 JUDGE ROSAS: If she can't do it, we're going to do it in
4 the hearing. We're either going to do it now, or we're going
5 to do it -- or we're going to do it tomorrow. Do you know her
6 availability to do this? You're saying --

7 MS. PENDER-STANLEY: I don't --

8 JUDGE ROSAS: -- you don't think it's going to get done?

9 MS. PENDER-STANLEY: I'm just saying I don't know. I
10 don't know --

11 JUDGE ROSAS: Okay.

12 MS. PENDER-STANLEY: -- her availability tonight --

13 JUDGE ROSAS: Okay.

14 MS. PENDER-STANLEY: -- to get this done.

15 JUDGE ROSAS: Why don't I authorize all three of you to go
16 out there and talk to her regarding that limited situation --

17 MS. PENDER-STANLEY: Okay.

18 JUDGE ROSAS: -- to see exactly what we want to do? We'll
19 take five.

20 MS. PENDER-STANLEY: Okay.

21 JUDGE ROSAS: Okay?

22 MS. POLITO: Thank you.

23 (Off the record at 2:47 p.m.)

24 JUDGE ROSAS: All right. So Counsel, do you want to recap
25 what we agreed to do going forward?

1 MS. PENDER-STANLEY: Yes. So Respondent proposed, and I
2 agreed, that, instead of listening to the entirety of GC
3 Exhibit 114 and 115 this afternoon, the witness will take the
4 transcripts and mark them up tonight. Respondent will review
5 them and will review the marked transcripts tomorrow morning.
6 And we may be able to obviate the need to play the recordings
7 at all.

8 And then we will also play the seven-minute recording that
9 is GC-116 tomorrow, after Respondent reviews that tonight, to
10 see if they have questions about that.

11 JUDGE ROSAS: Okay.

12 THE WITNESS: Can I ask a question for clarification or --?

13 JUDGE ROSAS: Off the record.

14 (Off the record at 2:55 p.m.)

15 **RESUMED DIRECT EXAMINATION**

16 Q BY MS. PENDER-STANLEY: Jaz, when was your store
17 remodeled?

18 A I -- it was in October. I think it started October 12th.

19 Q When did you first learn that remodel was happening?

20 A In one of the early mid -- early September listening
21 sessions.

22 Q Was the store open during the remodel?

23 A It was not.

24 Q What did you do while the store was closed?

25 A I took the week off.



1 Q Did you -- were you aware of any other options you had
2 that week?

3 A Yes. There was a sign-up sheet in the back where you
4 could choose to take vacation if you had been there for over a
5 year and you had vacation accrued, or you would choose to be
6 scheduled at other stores, or you could choose to have the week
7 off if you did not have vacation time.

8 Q Did you work at the store after the remodel?

9 A I did.

10 Q What did you notice was different?

11 A The bar was lower. It was a little further out. We had
12 this big screen that had customized names on it and -- and an
13 iPad that connected to the screen, where you could swipe off
14 the names to show whose order was ready or whose had been
15 picked up.

16 Q Did you interact with any corporate managers during the
17 time your store was closed for the remodel?

18 A I did.

19 Q On what date?

20 A It was somewhere between October 12th through 16th,
21 because that was when the remodel was.

22 Q Where were you?

23 A I was at the Sheridan and Bailey Starbucks.

24 Q And what happened that day?

25 A I walked in and got a drink, and I was sitting in the



1 lobby drinking my coffee. And Rossann Williams and Adam Modzel
2 were there. Rossann came over first and started talking to me
3 about the remodel. I was, like, standing, like, here, and I
4 was looking up.

5 Q Well, you can't say --

6 A And --

7 Q -- the --

8 A Oh, okay. Sorry. She was standing over me, and I was --
9 when we were talking, she was talking about the remodel. And I
10 asked if other store -- if every store in Buffalo was getting a
11 remodel, and she said the ones that had asked for it. And I
12 said I wasn't aware that Elmwood had asked for a remodel, and
13 she said that we had, because we typically wanted more space
14 behind the bar.

15 And then Adam came over afterwards and was talking about
16 his new position. He had just become the community
17 mobilization or community relations person for Starbucks. And
18 he was talking about the new screen that we were getting in the
19 remodel, because he was part of the D.C. district that had the
20 ASL store, which I think was the only other store, he said,
21 that had that screen in the country.

22 Q Prior to the campaign, did you ever pick up shifts at
23 another store?

24 A Yes.

25 Q How would you do that?

1 A There was a group chat for shift coverage. So usually, I
2 would see a post from a partner in that chat. And usually, it
3 was like, hey, somebody just called off, anybody pick up a
4 shift. And then you said yes, and they were like, okay,
5 amazing. Like, you know, you just go to the store and pick up
6 the shift. And --

7 Q Who would approve that?

8 A The shift supervisor, if it was in the moment, of the
9 store that you were picking up a shift in. Occasionally, it'd
10 be the store manager of that store. And you would need
11 approval from your own store manager unless you were going into
12 overtime because, you know, they didn't want to have to pay you
13 overtime.

14 Q Did there come a time when that process changed?

15 A Yes.

16 Q How did you learn that that process had changed?

17 A I picked up a shift in late October at the Camp Road
18 store. And the next time I worked at my store, Patty asked me
19 if I had worked at Camp Road, and I said yes. And she said
20 that that was no longer something I could just do; that I had
21 to get her permission and approval to pick up a shift at the
22 other store.

23 Q Prior to the campaign, did Starbucks have a dress code?

24 A Yes.

25 Q How was the dress code enforced at your store?



1 MS. POLITO: Objection. As it relates to her, not as it
2 relates to others, unless she has personal knowledge.

3 JUDGE ROSAS: Rephrase.

4 Q BY MS. PENDER-STANLEY: Prior to the campaign, were you
5 ever disciplined for violating the dress code?

6 A No.

7 Q Did you ever witness anyone else spoken to about the dress
8 code?

9 A I did not. In fact, I recall it very specifically told me
10 that they -- they were plaid pants and certain things that
11 weren't technically dress code, and that, you know, there was
12 not an issue with doing that within reason.

13 Q What about after the campaign started?

14 A Yes. We were all made to sign down and sign the -- the
15 dress code policy again, and partners started getting --

16 Q Well, who made you sign the dress code policy?

17 A Patty.

18 Q And when was that?

19 A It was Sept -- I think it was October. It was somewhere
20 in September to October.

21 Q After that point, were you ever talked to about the dress
22 code?

23 A Yes.

24 Q Who talked to you?

25 A Both Patty and Merley together.

1 Q And what did they tell you?

2 A I was wearing multiple union pins, and they told me that
3 if I did not take off some of the union pins, I was going to
4 have one left, which is the letter of the policy, that I would
5 face discipline.

6 Q In your time working at Starbucks, did you ever receive a
7 raise?

8 A Yes.

9 Q When was that?

10 A One technically went into effect the day that I started,
11 so I don't think that really counts, but we -- December 14th,
12 2021, and then, January so it went into effect, I think, in
13 early October, and then -- of 2021.

14 Q Do you know what those raises were based on?

15 MS. POLITO: Objection to the word raises. She said she
16 only had one raise.

17 Q BY MS. PENDER-STANLEY: Okay. Do you know what that raise
18 was based on?

19 JUDGE ROJAS: Hold on. She -- she just referred to a
20 raise in October. What's your objection, Counsel?

21 MS. POLITO: Yeah. Using the plural raises, because I
22 thought we were just talking about the October 2021 raise.

23 JUDGE ROJAS: That's stricken.

24 MS. PENDER-STANLEY: What -- what -- I'm sorry. What was
25 stricken?



1 JUDGE ROJAS: Raises in October.

2 MS. PENDER-STANLEY: Got you. Okay.

3 Q BY MS. PENDER-STANLEY: Do you know what that raise was
4 based on?

5 A I think was the standard yearly raise.

6 Q Have you ever heard of a seniority-based raise at
7 Starbucks?

8 A Yes.

9 Q When was the first time you heard of that happening?

10 A I think it was October 27th of 2021. Definitely October.

11 Q How did you learn about that?

12 A There was a letter posted in the store, and co-
13 workers were talking about it.

14 Q Other than the October remodel, are you aware of any other
15 planned changes for the Elmwood store?

16 A There was talk of an additional remodel.

17 Q Who talked about the additional remodel?

18 A Multiple of our support managers.

19 Q And what was said about that?

20 A That there would be another one, probably around February
21 of this year.

22 Q Has that remodel taken place?

23 A No.

24 Q Do you remember which support manager talked about the
25 remodel? Let's start --

1 A It must've been Taylor.

2 Q When you first started at Starbucks, what was your
3 availability?

4 A I think when I applied, it was an open, and then I changed
5 it pretty quickly after that.

6 Q When did you change it?

7 A Within a month or two so that I could work openings only.

8 Q And have you ever changed it since then?

9 A Yes.

10 Q When?

11 A I changed it a couple of times. I changed it in, I think,
12 Jan -- late January or early February of 2022, when, as
13 mentioned earlier, Patty had asking if I was cool giving some
14 of the shifts to newer hires, and I said yes. And there was
15 one -- one who has openings scheduled three days a week, so I
16 changed it one time three to be scheduled more to go down to
17 three days a week, and Patty told me that I would not be
18 allowed to change it to anything less than that.

19 Q Since Patty told you that, have you attempted to change
20 your availability again?

21 A Yes.

22 Q When did you do that?

23 A Something like a couple of other times. I think probably
24 around June -- April 13, maybe.

25 Q What was the availability you were most recently

1 requesting?

2 A One day a week for Sunday mornings.

3 Q And has that been approved?

4 A No. It was denied.

5 Q Prior to the campaign, do you know whether anyone at your
6 store was working one day a week?

7 A Yes, multiple partners worked one day a week prior.

8 Q Who?

9 A Joshua Mendez worked one day a week. Lois Creeks
10 (phonetic) occasionally would work two days a week, and Kelley
11 Marten (phonetic) only worked one day a week, including through
12 all of the fall of 2021.

13 Q Did you ever speak to your store manager about your
14 availability request?

15 A I did.

16 Q Who did you speak to.

17 A Both Patty Shanley and Merley.

18 Q When did you speak to Patty and Merley?

19 A I started speaking to Patty in February and had continued
20 to talk to them about it because their continuing to not allow
21 me to have the availability that I need.

22 Q At the time you request one day avail -- of availability,
23 what was the status of the Union at your store?

24 A It was organizing.

25 Q Are you on any committees, other than the organizing

1 committee?

2 A And also the bargaining committee for the Elmwood store.

3 Q What would you do as a member of the bargaining committee?

4 MS. POLITO: Objection. Relevance.

5 JUDGE ROJAS: Just generally.

6 MS. PENDER-STANLEY: Sure. There's an allegation that --
7 about -- there was a lack of bargaining about specific
8 witnesses' availability rule.

9 JUDGE ROJAS: Okay. Overruled.

10 THE WITNESS: As a member of the bargaining committee, I
11 would attend negotiations, help make proposals, you know,
12 participate in discussions about like, how to counsel and et
13 cetera, and attend writing for some of the other stores as
14 well.

15 Q To your knowledge, did the Employer bargain with the Union
16 before changing its availability policy?

17 A They did not.

18 Q Prior to the campaign, in your time working at Starbucks,
19 have you ever made any leave requests?

20 A Yes.

21 Q Had any leave requests ever been denied?

22 A Not without me being able to talk about it and get it
23 approved when needed.

24 Q After your store was certified, did you make any leave
25 requests?

1 A Yes.

2 Q Were any of them denied?

3 A Yes.

4 Q What's a first instance of a leave request being denied?

5 A I requested three weeks off in May 2022 to attend my
6 sister's wedding, and I was told that was not going to get
7 approved as a time off request.

8 Q Have you ever taken three weeks in a row before?

9 A Yes.

10 Q When was the most recent time?

11 A Over the Christmas holidays, and maybe a time previous as
12 well.

13 Q Which Christmas holidays? What year?

14 A Oh, sorry. 2021.

15 Q If you could look General Counsel Exhibit 41. It's four
16 pages. Let's take a look at each page, and let me know when
17 you're ready.

18 A Okay.

19 Q Okay. What is this? Do you recognize this document?

20 A Yes.

21 Q What is this?

22 A These are screenshots of my partner hours, where it shows
23 the time off requests that had put in. The first one is one --
24 one that was approved, where I was taking time off for the
25 holidays, and then the next were the denials of the May one to

1 attend my sister's wedding.

2 Q And can you just -- how did you take these screenshots?

3 A On your phone when I went to My Partner Hours.

4 Q Did you edit these at all?

5 A No.

6 Q Can you just tell me -- I want to -- kind of walk me
7 through just on the first page, the time off details. Can you
8 just explain what it all means on the page?

9 A Sure. So it says, you know, all day or partial day based
10 on how much of day you were requesting off, and then in front
11 is the start date to the end date. The type is, you know, what
12 kind it is, which is time off, and then comments is basically
13 you can write down the reason, where comments history is it
14 shows that I've written and the reason was to spend holidays
15 with family. And then it shows, you know, the date that that
16 was submitted, which is the pending date, and then that Patty
17 approved it.

18 MS. POLITO: Alicia, my copy is not clear, so if -- if
19 you're going to ask her questions, maybe you can ask her to
20 state the from and to dates.

21 JUDGE ROJAS: Well, it's not in evidence yet.

22 MS. POLITO: Okay.

23 MS. PENDER-STANLEY: Right, I was just having her walk
24 through it.

25 MS. POLITO: Sorry.

1 MS. PENDER-STANLEY: And the electronic copy will be
2 clearer, obviously. I would offer General Counsel 41 at this
3 time.

4 MS. POLITO: Voir dire.

5 **VOIR DIRE EXAMINATION**

6 Q BY MS. POLITO: Ms. Brisack, looking at Exhibit number 41
7 on page 1, there's a from and to that's -- at least on my copy,
8 is very light. I -- I don't know what your copy looks like,
9 but yet the comments history seems to be bolded. Do you know
10 why there's a difference in the writing?

11 A Because they chose it as, you know -- something that's
12 already submitted, so it's -- like that we can't edit the from
13 and to, on something that you've already submitted. So you
14 know, it's not one that I was currently submitting. It's one
15 that had already been done, so it couldn't be changed in the
16 system, so it's things that are to show that it's, you know,
17 not something that you're currently editing.

18 Q And can you tell me what the from and to dates are on that
19 page, please?

20 A It's 12 -- from 12/19/2021 to January 3rd, 2022.

21 Q And it's marked all day up top, correct, the bullet? On
22 page 2, can you tell me, if you could, the same dates, the
23 from/to?

24 A That's a little faint. It's 6/8 of this -- no, it's not
25 6.

1 MS. PENDER-STANLEY: I can pull up the --

2 THE WITNESS: It's 5/14/2022 to 5/28/2022.

3 MS. POLITO: Ms. -- Ms. Stanley just indicated she can
4 also pull it up on the screen, if that's helpful. So --

5 JUDGE ROJAS: Do you want to pull it up on the screen?

6 MS. PENDER-STANLEY: Sure.

7 THE WITNESS: Thank you, Your Honor.

8 MS. PENDER-STANLEY: Do you have it on the one right in
9 front of you?

10 THE WITNESS: No.

11 JUDGE ROJAS: No, that -- that one doesn't work.

12 MS. POLITO: Right, that one doesn't work.

13 JUDGE ROJAS: You know what?

14 MS. POLITO: Can you see the one --

15 THE WITNESS: Not clearly enough to read.

16 JUDGE ROJAS: No. I'm going to just see if I can move
17 this. You can stand up without losing your speaker.

18 THE WITNESS: Oops, sorry. Think I did lose it.

19 UNIDENTIFIED SPEAKER: Can you see this one?

20 THE WITNESS: I can't. My eyesight won't --

21 JUDGE ROJAS: I turned this one here --

22 UNIDENTIFIED SPEAKER: I'm sorry.

23 JUDGE ROJAS: -- so she should be able to see it.

24 THE WITNESS: Yeah, this is perfect.

25 MS. POLITO: Is there a way to, like, make it darker,

1 maybe, or something? Because I still -- I think you still
2 can't see it.

3 JUDGE ROJAS: Can you see from there?

4 THE WITNESS: Yes.

5 MS. PENDER-STANLEY: Yeah, you're asking questions that I
6 don't know.

7 JUDGE ROJAS: All right, she can see from there.

8 MS. PENDER-STANLEY: Okay.

9 THE WITNESS: So this is the 12/19 one. Did you want to
10 go to the next one?

11 MS. POLITO: I'm sorry. Now I can't hear you.

12 JUDGE ROJAS: Oh. Then, there's a microphone --

13 MS. POLITO: It's a comedy of errors here.

14 THE WITNESS: Can I move this?

15 MS. POLITO: Miss -- yes.

16 Q BY MS. POLITO: Ms. Brisack, if you can read the from and
17 to on -- on each page, I think that would be helpful for the
18 record. So the first one, I heard you say 12/19/2021 through
19 1/3/2022?

20 JUDGE ROJAS: Put that thing back on your lapel, as well.
21 Well, or hold it as close as you can.

22 THE WITNESS: That's right.

23 Q BY MS. POLITO: And then, the next page 2, 5/14/2022 to
24 5/28/2022?

25 A That's right.

1 MS. PENDER-STANLEY: It's a big strain.

2 THE WITNESS: Now is that -- the third page is -- is this
3 still working?

4 MS. PENDER-STANLEY: Yes.

5 THE WITNESS: The third page is also 5/14/2022 through
6 5/28/2022.

7 MS. PENDER-STANLEY: And this is page 4.

8 THE WITNESS: Okay, that is also 5/14/2022 through 5 --

9 JUDGE ROJAS: Remember to use the microphone as well. The
10 microphone's below you right there.

11 Q BY MS. POLITO: The last page says 5/14/2022 through
12 5/29/20 -- 2022; is that correct?

13 A Yes.

14 MS. POLITO: Okay.

15 JUDGE ROJAS: Are we good, or you have more on this?

16 MS. POLITO: Just a couple other questions.

17 Q BY MS. POLITO: And so your testimony was that you had on
18 your iPad your partner hours screen up --

19 A On my phone.

20 Q On your phone. You have access to your partner hours on
21 your phone?

22 A Yes.

23 Q And then you took a screenshot on your phone?

24 A Yes.

25 Q And that these represent the screenshots relating to your



1 partner hours?

2 A Yes. It was in the browser, not the app, because there's
3 two different ways that you make it, but this in the browser on
4 my phone.

5 Q And when did you take these pictures?

6 A I could get the date, but I don't remember. I just
7 screenshotted them so that I could, you know, refer back to
8 what the actual refusals kind of looked like.

9 MS. POLITO: I have no objection, Judge.

10 JUDGE ROJAS: Okay. So General -- I don't have a copy.
11 What -- what is it? General Counsel what?

12 MS. PENDER-STANLEY: Exhibit 41. Do you not have -- I put
13 a copy up -- there should be one up there for you.

14 JUDGE ROJAS: I don't.

15 MS. PENDER-STANLEY: Maybe the court reporter.

16 JUDGE ROJAS: Four --

17 MS. PENDER-STANLEY: I should've --

18 JUDGE ROJAS: Okay. General Counsel's 41 is received.

19 **(General Counsel Exhibit Number 41 Received into Evidence)**

20 MS. PENDER-STANLEY: It should've been at the very end of
21 the stack, under the transcripts.

22 JUDGE ROJAS: What -- I will suggest that, and you could
23 show it to Respondent and Charging Party -- that -- that you
24 superimpose in those fields where I don't think it's going to
25 copy well for purposes of the record, show it to Counsel, and

1 basically doctor it up so it could be read --

2 MS. PENDER-STANLEY: Okay. Yeah, I -- I mean, the --

3 JUDGE ROJAS: -- those figures that are in there.

4 MS. PENDER-STANLEY: Right. The electronic version that
5 we had in the screen will be what is submitted to the reporting
6 service and what should show up electronically --

7 JUDGE ROJAS: And that's how it'll show --

8 MS. PENDER-STANLEY: -- but it is still --

9 JUDGE ROJAS: The way we saw it here is how it'll show up
10 electronically?

11 MS. PENDER-STANLEY: Yes.

12 JUDGE ROJAS: Oh, okay. That's fine.

13 MS. PENDER-STANLEY: But I'll make a note to make sure
14 it's legible.

15 JUDGE ROJAS: Yeah, I don't -- I'm going to need a copy.
16 I don't see it.

17 MS. PENDER-STANLEY: I know I have an extra one.

18 JUDGE ROJAS: Oh, you don't have to do it now.

19 MS. PENDER-STANLEY: Oh.

20 **RESUMED DIRECT EXAMINATION**

21 Q BY MS. PENDER-STANLEY: Do you know whether there's a
22 difference between a vacation and a leave of absence at
23 Starbucks?

24 A There is.

25 Q What's the difference?

1 A A time off request just goes through the store manager and
2 is, you know, approved internally in the system. Coming back
3 from a time off request just means that you can be scheduled
4 again, and so it's a very, you know, straight forward pro --
5 process.

6 Applying for a leave of absence goes through Sedgwick,
7 which a third-party contracted by Starbucks, which must be
8 approved by the store manager and the district manager and then
9 submitted to Sedgwick. And it has to be a processed by them.
10 It takes you from, like, active partner in the system to a
11 partner on waiting system, so that if you come back, you know,
12 your numbers might not work to punch in. My numbers didn't
13 work to punch in in order to, like, use the cash register, et
14 cetera, until they had been cleared on Sedgwick's side.

15 Q How do you know that's the process for a leave of absence?

16 A Because I did take one.

17 Q When?

18 A For those weeks in May.

19 Q Are you familiar with the Delaware and Chippewa store?

20 A Yeah.

21 Q How are you familiar with that store?

22 A I picked up a shift there, and I've been there numerous
23 times as a customer.

24 Q Have you ever interacted with any managers at that store?

25 A I have --

1 Q What --

2 A -- specifically Gavin.

3 Q Okay. What occasion did you interact with Gavin?

4 MS. POLITO: Objection. Relevance.

5 MS. PENDER-STANLEY: There's an allegation in the
6 complaint. There's an allegation in the complaint --

7 JUDGE ROJAS: Yeah. Just generally.

8 MS. PENDER-STANLEY: -- about the solicitation role --

9 JUDGE ROJAS: Okay.

10 MS. PENDER-STANLEY: -- at Delaware/Chippewa.

11 JUDGE ROJAS: Overruled.

12 THE WITNESS: So there were three different times that I
13 interacted with Gavin during the campaign that are pertinent at
14 the Delaware and Chippewa store. The first time, I went in and
15 was talking to Bobby (phonetic), who was a partner from the
16 Galleria who was going to East Robinson, and Bobby said that
17 they'd liked my pin. And I was having a conversation with
18 them. They were under as I was ordering a drink, and then
19 Gavin came over, interrupted me, and said, you know, what are
20 you ordering, make my drink. And you know, was hovering to
21 make it very difficult to have that conversation with Bobby.

22 The second time was after the rally. We had all gone to
23 the Delaware/Chippewa store to get coffee after, and we were
24 wearing our take back our store T-shirts. And Gavin, as well
25 as other managers were present. Gavin came out from behind the

1 bar and started asking us what our names were and what stores
2 we were trying -- and that was myself, Gianna Reeve, and Danny
3 Rojas.

4 And then, the third time was around the Oct -- the October
5 TPO (phonetic) partner meeting, and I was taking the copy of a
6 flyer that I had made that was changing out from the TBO
7 partner flyer from Starbucks, to make it, you know, a current
8 flyer. And I hand one to Mark, and Allegra asked if I had any.
9 I was giving her one. And you know, giving things back and
10 forth with customers and --

11 Q Just tell me what happened.

12 A Oh, sorry. Okay. So Gavin came over and said, what are
13 you -- what are you giving the partner? And I showed him the
14 flyer, and he was, like, you can't give people anything.
15 And -- but I didn't want to put Allegra in a very awkward
16 position, so I ended up leaving.

17 Q Who's Allegra?

18 A Oh, that was a shift super -- is a shift supervisor at the
19 Delaware/Chippewa store.

20 Q And were you working at the Delaware/Chippewa store that
21 day?

22 A No.

23 Q And are you aware of any new hires at the Elmwood store
24 after October 2021?

25 A There were no new hires.



1 Q Have there been any recently?

2 A There have been three. The first one was June 2022.

3 Q Between October of 2021 and June of 2022, how was staffing
4 in your store, in your opinion?

5 A Slow. For, like, a few weeks when the new partners came
6 in in October, you know, we were overstaffed, but then we
7 started losing partners. People transferred out. Some people
8 quit. Cassie was fired, you know. And we only got one
9 transfer in during that time, where we lost 16 partners. So we
10 were -- we had a desperately short staff, and we're still
11 short-staffed.

12 Q Why do you think you're short-staffed?

13 A Because we don't have enough partners to meet the needs of
14 the business. If a shift supervisor, well, goes on vacation,
15 that means that other shift supervisor was then having to work
16 for, you know, six days in a row and cover that, which isn't
17 the normal practice. I had a vacation request denied because
18 we didn't have, you know, enough partners to cover that, which
19 isn't how it's supposed to work.

20 MS. PENDER-STANLEY: I have nothing further for this
21 witness, except for the recording and associated questions
22 tomorrow.

23 JUDGE ROJAS: Charging Party, anything?

24 **CROSS-EXAMINATION**

25 Q BY MR. DOLCE: Hi, Jaz. Mike Dolce for the Union. I just



1 have one kind of clarifying thing. So you -- you talked
2 about -- you listed off a bunch of support managers that came
3 in post-Union campaign, and you mentioned that the -- the
4 frequency with which a manager was in the store was higher than
5 before. My -- my question is actually about the quantity
6 during a given shift. So a lot of the -- as you testified, the
7 op -- the --

8 MS. POLITO: Objection. Counsel has to ask a question,
9 not give a narrative or --

10 MR. DOLCE: Okay.

11 MS. POLITO: -- a statement.

12 JUDGE ROJAS: Rephrase.

13 MS. POLITO: If there's a question, ask a question.

14 MR. DOLCE: All right. Pardon.

15 Q BY MR. DOLCE: After August of 2021, after the support
16 managers came into the store, was there ever a shift where
17 multiple managers were working?

18 A Quite frequently.

19 Q What was the highest amount of managers working in one
20 shift when you were there?

21 A Four was pretty common. I'm sure there were conditions
22 where there were more than four, but quite frequently there
23 would be a support manager, and then, like, you know, a group
24 of like, you know, us and friends or other support managers
25 coming in. So I'm not sure what the record was, but it was

1 very frequent to have lots of managers present at once.

2 Q And then, what about, like, managers that were scheduled
3 for on the floor, not visiting managers, but that were
4 scheduled at the Elmwood store?

5 A So we would very frequently have shifts with both Patty
6 and other support managers. There were also shifts where we
7 had Dustin and Matt, Matt and Sara, et cetera. So there were
8 very frequently multiple managers present at the same time. We
9 had one-on-one meetings where --

10 MS. POLITO: Objection. The witness is now not answering
11 the question --

12 JUDGE ROJAS: Okay.

13 MS. POLITO: -- any longer.

14 JUDGE ROJAS: We'll -- we'll stop it there. Next
15 question.

16 Q BY MR. DOLCE: Before August of 2021, was there ever a
17 shift that you worked where there were multiple managers
18 scheduled at the Elmwood store?

19 A No.

20 MR. DOLCE: I have nothing further.

21 JUDGE ROJAS: Okay, we will conclude the direct
22 testimony -- not conclude, but we will pause the direct
23 testimony at that point. We will resume tomorrow with audio
24 tape evidence. At that point, we will proceed, hopefully in as
25 efficient a manner as possible, and we'll instruct the witness

1 that you are under oath. You will remain under oath. You're
2 not to discuss the case with anyone, including the lawyers. If
3 you have to have any discussions with the lawyers about
4 anything to be clarified, you do so now, in the presence of all
5 three of them. Okay? Otherwise, don't talk to anybody. Have
6 a good day.

7 THE WITNESS: Thank you.

8 JUDGE ROJAS: All right. Is there anything else before we
9 go off the record?

10 MS. PENDER-STANLEY: Nothing from the General Counsel,
11 Your Honor.

12 JUDGE ROJAS: Anything?

13 MS. POLITO: Nothing, Your Honor.

14 JUDGE ROJAS: Okay. We're adjourned to tomorrow at 9 a.m.
15 See everybody then.

16 MS. PENDER-STANLEY: Thank you.

17 JUDGE ROJAS: All right. Have a good day.

18 **(Whereupon, the hearing in the above-entitled matter was**
19 **recessed at 5:30 p.m. until Thursday, August 4, 2022 at 9:00**
20 **a.m.)**

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C E R T I F I C A T I O N

This is to certify that the attached proceedings before the National Labor Relations Board (NLRB), Region 3, Case Numbers 03-CA-285671, Starbucks Corporation and Workers United, held at the National Labor Relations Board, Region 3, Robert H. Jackson United States Courthouse, 2 Niagara Square, Wyoming Courtroom, 5th Floor, Buffalo, New York 14202, on August 3, 2022, at 9:04 a.m. was held according to the record, and that this is the original, complete, and true and accurate transcript that has been compared to the reporting or recording, accomplished at the hearing, that the exhibit files have been checked for completeness and no exhibits received in evidence or in the rejected exhibit files are missing.



ELAINE LAROSEE

Official Reporter